NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

CIS Congressional Information Service, Washington, D.C.

S. HRG. 100-1007, PT. 3

UNITED STATES-CANADA FREE TRADE AGREEMENT—1988

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

APRIL 15 AND 21, 1988

(Part 3 of 3)

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

91-402 ⇆ WASHINGTON : 1989

S 361-18

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

COMMITTEE ON FINANCE

LLOYD BENTSEN, Texas, *Chairman*

SPARK M. MATSUNAGA, Hawaii
DANIEL PATRICK MOYNIHAN, New York
MAX BAUCUS, Montana
DAVID L. BOREN, Oklahoma
BILL BRADLEY, New Jersey
GEORGE J. MITCHELL, Maine
DAVID PRYOR, Arkansas
DONALD W. RIEGLE, JR., Michigan
JOHN D. ROCKEFELLER IV, West Virginia
TOM DASCHLE, South Dakota

BOB PACKWOOD, Oregon
BOB DOLE, Kansas
WILLIAM V. ROTH, JR., Delaware
JOHN C. DANFORTH, Missouri
JOHN H. CHAFEE, Rhode Island
JOHN HEINZ, Pennsylvania
MALCOLM WALLOP, Wyoming
DAVID DURENBERGER, Minnesota
WILLIAM L. ARMSTRONG, Colorado

JAMES C. GOULD, *Staff Director and Chief Counsel*
EDMUND J. MIHALSKI, *Minority Chief of Staff*

CONTENTS

OPENING STATEMENTS

	Page
Baucus, Hon. Max, a U.S. Senator from Montana	1, 35
Bentsen, Hon. Lloyd, a U.S. Senator from Texas, Chairman, Committee on Finance	16, 35
Packwood, Hon. Bob, a U.S. Senator from Oregon	18, 53
Riegle, Hon. Donald W., Jr., a U.S. Senator from Michigan	20
Bradley, Hon. Bill, a U.S. Senator from New Jersey	24
Mitchell, Hon. George J., a U.S. Senator from Maine	37
Daschle, Hon. Tom, a U.S. Senator from South Dakota	37
Durenberger, David, a U.S. Senator from Minnesota	38
Chafee, Hon. John H., a U.S. Senator from Rhode Island	55

COMMITTEE PRESS RELEASE

Bentsen Announces Finance Committee Hearing on United States-Canada Free Trade Agreement Legislation	1

APRIL 15, 1988

PUBLIC WITNESSES

Symms, Hon. Steve, a U.S. Senator from Idaho	2
Santucci, Marc, Advisor to the Governor for Trade Policy, State of Michigan, Lansing, MI	7
Hoffman, Linda J., Vice President, Government Affairs and Trade, Automotive Parts and Accessories Association, Lanham, MD	9
Beckman, Steve, International Economist, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), Washington, DC	10
Hanna, Thomas H., President and Chief Executive Officer, Motor Vehicle Manufacturers Association of the United States, Inc., Washington, DC	13
Bates, Christopher M., Director of Policy Analysis, Motor and Equipment Manufacturers Association, Washington, DC	15
Zelms, Jeffrey L., President, The Doe Run Company, St. Louis, MO	28
Muth, Robert J., President, Non-Ferrous Metals Producers Committee, New York, NY	30

THURSDAY, APRIL 21, 1988

PUBLIC WITNESSES

Cohen, William S., a U.S. Senator from Maine	38
Oswald, Rudy, Chief Economist, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), Washington, DC	42
Trowbridge, Alexander B., President, National Association of Manufacturers, Washington, DC, on behalf of the American Coalition for Trade Expansion with Canada	45
Freeman, Harry L., Executive Vice President, Corporate Affairs and Communications, American Express Company, New York; on behalf of the United States Council for International Business	57

Page

McNeill, Robert L., Executive Vice Chairman, Emergency Committee for American Trade, Washington, DC 59
Roberts, Richard W., President, National Foreign Trade Council, Incorporated, New York, NY 61

APPENDIX

Alphabetical Listing and Material Submitted

Bates, Christopher M.:
Testimony 15
Prepared statement 71
Baucus, Hon. Max:
Opening statements 1, 35
Beckman, Steve:
Testimony 10
Prepared statement 75
Bentsen, Hon. Lloyd:
Opening statements 16, 35
Bradley, Hon. Bill:
Opening statement 24
Chafee, Hon. John H.:
Opening statement 55
Cohen, Hon. William S.:
Opening statement 38
Prepared statement 82
Daschle, Tom:
Opening statement 37
Durenberger, David:
Opening statement 38
Freeman, Harry L.:
Testimony 57
Prepared statement 86
Hanna, Thomas H.:
Testimony 13
Prepared statement 93
Hoffman, Linda J.:
Testimony 9
Prepared statement 100
McNeill, Robert L.:
Testimony 59
Prepared statement 103
Mitchell, Hon. George J.:
Opening statement 37
Muth, Robert J.:
Testimony 30
Prepared statement 108
Responses to written questions 124
Oswald, Rudy:
Testimony 42
Prepared statement 142
Packwood, Hon. Bob:
Opening statement 18, 53
Riegle, Hon. Donald W., Jr.:
Opening statement 20
Prepared statement 147
Roberts, Richard W.:
Testimony 61
Prepared statement 150
Santucci, Marc:
Testimony 7
Prepared statement 155
Symms, Hon. Steve:
Opening statement 2
Prepared statement 166

Page

Trowbridge, Alexander B.:
Testimony 45
Prepared statement 169
Zelms, Jeffrey L.:
Testimony 28
Prepared statement 186

COMMUNICATIONS

American Farm Bureau Federation 197
American Institute of Architects 207
American Wire Producers Association 212
Chaparral Steel Company 220
Chocolate Manufacturers Association of the U.S.A. 226
DcConcini and Heflin, Hon. 228
Grace, W.R. & Co. 230
Grassley, Hon 231
Thurmond, Hatch, and Humphrey, Hon. 233
Licht, Richard A 235
Minnesota, State of 238
National Governors' Association 242
National Grange 244
Joseph E. Seagram & Sons, Inc. 246
Office of the Chemical Industry Trade Advisor 248

UNITED STATES-CANADA FREE TRADE AGREEMENT—1988

FRIDAY, APRIL 15, 1988

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to recess, at 10:05 a.m. in Room SD-215, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman) presiding.

Present: Senators Bentsen, Baucus, Bradley, Riegle, Packwood, Danforth, Chafee, and Durenberger.

[The prepared statement of Senator Riegle appears in the appendix.]

[The press release announcing the hearing follows:]

[Press Release No. H-16, April 15 and 21, 1988]

BENTSEN ANNOUNCES FINANCE COMMITTEE HEARINGS ON UNITED STATES-CANADA FREE TRADE AGREEMENT

WASHINGTON DC—Senator Lloyd Bentsen (D., Texas) Chairman, announced Tuesday that the Committee on Finance will hold four days of hearings on the United States-Canada Free Trade Agreement in mid-April.

The hearings are scheduled for *Tuesday, April 15 and Thursday, April 21, 1988. All four hearings will be held at 10:00 a.m.* in room SD-215 of the Dirksen Senate Office Building.

Bentsen said: "Testimony from private enterprise is an important part of the Committee's consideration of the agreement. I anticipate that the legitimate concerns of domestic industries about the agreement will have to be addressed in implementing legislation."

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator BAUCUS. This hearing will come to order. This morning we are continuing the series of hearings on the United States-Canada Free Trade Agreement. Today, we are honored to have Senator Symms from the State of Idaho to give the views of Idaho on the agreement.

Another panel later this morning will be comprised of various representatives of the auto industry—auto parts as well as organized labor—interested in the auto agreement.

And the final portion of today's hearing will focus on the nonferrous metals industry's concerns regarding the agreement.

Senator Symms, we are happy to have you here.

STATEMENT OF HON. STEVE SYMMS, A U.S. SENATOR FROM IDAHO

Senator SYMMS. Thank you very much, Mr. Chairman. First, let me express my appreciation to the committee for permitting me to present these remarks today on the free trade agreement negotiated last year between the United States and Canada.

I might just say to the Chairman and my colleagues on the committee that I certainly enjoyed the opportunity that I had the first 6 years I was in the Senate to be a member of this committee, and I remember well the effort we had in the committee on moving the fast track legislation forward on the Canadian free trade agreement.

If the difficulties that I still see in the agreement can be corrected, this free trade agreement in my view will be one of the most historical and beneficial trading agreements in the history of the world. The potential for increasing the standard of living for all Americans and Canadians is immense. Our two nations already share the world's longest undefended border.

We share a common political and legal heritage. Our mutual trade is the greatest in the world, even as impeded as it now is by trade restrictions and tariff regulations. In the big picture of things, Mr. Chairman, there is no reason why our two countries should not eliminate all economic barriers between producers and consumers on both sides of the border.

Greater productivity and efficiency have the potential to make everyone better off. There is, however, serious political opposition to the free trade agreement, both in the United States and in Canada; and the reason for the opposition is just as clear and easy to understand as the economical potential for great benefits.

The free trade agreement will cause a reallocation of economic resources between our countries so that each national economy will become more specialized and more efficient in producing and trading those commodities and services in which each of us has a comparative advantage.

This is what has long ago happened inside the United States and Canada. We all understand the adjustment pains of the movement of industry from the Rust Belt to the Sun Belt and the adjustments as our industrial productivity has improved and we have created more and more high technology service jobs to replace lower technology industrial jobs.

The economic adjustments that must occur will not make anyone happy who will have to make an adjustment. It will even make some people temporarily worse off. So, none of us should be so full of positive words about the free trade agreement that we become insensitive to real economic problems the free trade agreement will create in the transition years.

The transition years, moreover, will last a long time, much longer than the period of phasing and tariff reductions and subsidy reductions that are actually addressed in the agreement. Now, Mr. Chairman, I am appearing before the committee today as a supporter of the free trade agreement.

I believe the free market system is the best way to produce social and economic justice, and politics and politicians most of the time

do not produce more justice and equity with all of the regulating and meddling we do in the interest of our constituents.

I am a firm advocate of free markets, and the people of Idaho are advocates also of the free market. Idaho is distinguished for being one of the most agriculturally dependent States in the nation, fourth in terms of percent of jobs supplied by agriculture; yet Idaho agriculture is very different from other agriculturally dependent States. Eighty percent of our farm production by value is not subsidized by the Federal Government. While most other agricultural States are heavily dependent on wheat and feed grains, cotton, rice or soybeans, Idaho produces potatoes, onions, dry edible beans, peas, lentils, fresh fruits, beef, and lamb.

In 1987, the Commodity Credit Corporation of the United States Department of Agriculture paid out $2.8 billion in wheat subsidies, $14 billion in corn and feed grain subsidies, almost $1 billion in rice subsidies, and $1.8 billion in cotton subsidies. It did not make any payments for potatoes, onions, beans, or any of the other crops that make up the bulk of Idaho agriculture.

That is why, Mr. Chairman, Idaho agriculture suffers dramatically and unfairly when forced to compete against subsidized agricultural products. The same products that Idahoans produce without subsidy are produced in Canada with subsidies at various levels.

Perhaps the most dramatic subsidy that is offered by Canada is eastbound freight. Idaho producers are now depending on new markets in the eastern United States. Under the free trade agreement they will be required to compete with farm production just north of them that is shipped to the eastern seaboard in part courtesy of the Canadian Government.

Here in Washington, the transportation from Idaho can make up as much as a third of the cost you will pay good Idaho baked potatoes. Now, how can Idaho producers be expected to compete against such a significant transportation subsidy? But that is not all.

Canadian potato and dry and edible bean producers also receive direct subsidies from their own national provincial governments. These subsidies insulate Canadian farmers from market signals, allowing them to continue producing even when market prices have dropped below production costs.

An Idaho farmer cannot continue producing for a prolonged period of time under those circumstances. After all, Idaho farmers must make a profit on their potatoes, or they don't eat. They have no supplemental government subsidy to keep them in business and their families on the land.

Now, Mr. Chairman and members of the committee, there are snap-back provisions in the free trade agreement that restore trade barriers in cases where severe market damage is caused by Canadian subsidies. Unfortunately, these provisions are geared to fluctuations in price, not surges in volume.

Therefore, if subsidized Canadian sales are strategically targeted at grabbing market share rather than depressing prices, the snapback will be of no benefit at all to Idaho farmers and their piles of potatoes without buyers. As a supporter of the free market, I am here to urge the committee to consider adding language to the free trade agreement, to reinforce understandings on the part of Congress that the Administration will take further action to get those

unjust and unfair economic subsidies and market restrictions. Not eliminated gradually but eliminated right now, so that this program can start off successfully and not in a negative light.

If the reallocation of resources that we know must occur under the free trade agreement is to be done fairly and in the true interest of the American consumers and Canadian consumers and with the fairness to all producers. The Canadian practices that are economically wrong must end.

And yes, Congress must take action to eliminate a lot of subsidies and restrictions on this side of the border at the same time. Until this further work is done, however, I am afraid the free trade agreement is deeply flawed. Whenever negotiators work out a complex international agreement, the temptation is to address only those issues that appear to have the easiest solutions.

I sincerely fear that pressure to reach the agreement at the end of last year may have led some to the path of least resistance of understandings, but I am not going to allow this conclusion to turn me against the free trade agreement; and I don't say that to be critical of the negotiating team that the United States had working on this issue because, in general, they did an excellent job. It was a very difficult task to negotiate it out, and it is something that I think we here in the Congress should try to supplement, to make it somewhat stronger, and to try to make up for those deficiencies in areas that we perceive and that this committee perceives will be trouble for producers in the transition period. We need to help make this free trade agreement successful.

Now, Idaho is an agriculture and mineral-based economy that suffers when trade barriers prevent us from selling our products in Canada; and the free trade agreement is helpful in that area. But far greater harm may be done to the Idaho economy by the subsidization of Canadian products, and we cannot permit that to happen in my State or to any economic interests in any of your States.

So, Mr. Chairman and members of the committee, I thank you. I am sure this committee will address those problems, and I would like to offer my assistance in any way to help the committee if necessary to come to some conclusions that can solve some of these thorny problems such as transportation and the problem that we think it presents to the dry edible bean producers in Idaho, the potato producers, and others.

Thank you very much for your consideration.

Senator BAUCUS. Thank you, Senator. I think it is clear that your concerns are the same as those of the majority of the members of this committee, namely Canadian subsidies. I think all of us want a free trade agreement that can be ratified by this Congress and hopefully by the Canadian Parliament. But this agreement does not directly and effectively addresses Canadian subsidies.

You mentioned the subsidized Canadian freight that travels out to Thunder Bay. That is a problem that we face in our part of the country as well. You also mentioned the provincial subsidies that affect agricultural products produced in your State. It is a problem.

To give us a better sense of the problem, let me read a statement by Simon Reeseman, the chief Canadian negotiator, who said at the beginning of the negotiations, and I quote him:

You must understand that the Canadian people are committed to helping their industries that cannot compete. Our constitution requires that funds be transferred to assist companies in noneconomic locations to compete in international trade.

Let me repeat that:

Our constitution—that is the Canadian constitution—requires that funds be transferred to assist companies in noneconomic locations to compete in international trade.

Now, Canadian Trade Minister, Pat Kearney, says:

Regional development and the Canadian capacity to sustain regional development are not on the table and never will be.

Obviously, there is a strong Canadian commitment; in fact, there is a constitutional requirement that the Canadian government assist and subsidize noncompetitive industries in Canada.

The facts bear out that subsidies are high in Canada. OECD has analyzed United States subsidies compared with the Canadian subsidies and has concluded that the Canadian government subsidizes its industries about five times more than do we Americans. About one-half of one percent of our budget, total Federal, State, and local funds, go to assist American industries. In Canada, it is about 2.4 percent, about five times more than the American.

So, this is the problem that has to be addressed. And I am wondering whether, in your judgment, the implementing language can be drafted to remedy the problem. Do you think it is possible for some changes to be made in the implementing language to protect us?

I don't say "protect" in the negative sense. We want to compete. We want to be able to knock down those Canadian barriers to trade, i.e., those subsidies.

We are not trying to protect American industries. We are trying to help the Canadians compete on a level playing field.

Senator SYMMS. Mr. Chairman, I can only cite recent experience on that. If you recall, we had a real donnybrook in this committee over the issue of Canadian subsidized timber from the provinces; and there is now a 15 percent duty that the Canadians pay internally. We were going to assess it. But that has been kept out of the free trade agreement.

Now, whether a similar arrangement could be made by implementing language, I am not sure I am enough of a lawyer—which I am not one, and neither am I a trade expert—to determine this, but we did it on timber to where I think that our timber producers are treated at least closer to a level playing field than what they were previously.

That is all we are asking for in potatoes and dried beans. If there is a transportation subsidy, somehow the Canadians have to take under consideration that we simply can't be expected, even though I am for the free trade agreement, to be put in a position to support a free trade agreement that is going to do serious damage to the dry bean and potato producers in Idaho who are not subsidized and who do not enjoy subsidized freight rates to the eastern markets of the United States.

So, hopefully, yes, this committee could put some language in that would draw a parallel to what was done with timber. We should have this free trade agreement because I personally believe that, for the long pull in the North American continent, we not

only should have a free trade agreement with Canada, but we should have a free trade agreement with Mexico.

But first, we have to solve the easiest agreement, and that is Canada. It is very difficult to solve. So, I say "easy" guardedly, because it is always compared to what? But I hope that we can solve it, and I hope that this committee will be able to resolve some of those problems by implementing language.

Senator BAUCUS. Timber stumpage is a good example of the problem. You are correct that the Canadians do levy approximately 15 percent tax on Canadian lumber exports to offset the stumpage subsidy.

As you well recall, however, the American industry believes that it is about a 30 percent differential.

Senator SYMMS. Right. That is correct.

Senator BAUCUS. And you also recall that for a long time the domestic producers in America had a difficult time persuading all their brethren, particularly their brethren who have operations in Canada, to join together to begin the countervailing duty action.

Finally, they got that accomplished, filed the countervail, and finally Canada agreed to a 15 percent exported. But that outlines the problem, namely that this agreement tends to rationalize and legitimize Canadian subsidies. Sure, there is language that we will try to reduce them in the future, but there is no binding enforcement that they have to be reduced.

So, the agreement tends to rationalize Canadian subsidies and then puts the burden on the American industry through our current countervail law to try to offset the most injurious Canadian subsidies.

So, that puts the burden on America to try and do something about it. You have to show injury; you have to go through all the hoops. You have to go through the binational commission and so forth.

It just seems to me that a better result would be for the agreement to provide for reduction in the Canadian subsidies. That would be a far better result. Then there wouldn't be this additional burden on American industry to try to go through all these hoops and burdens and so forth to try to even it out.

Senator SYMMS. The reason I am hopeful this can work is because, where the Canadians have some 25 million people, it will help American producers in many areas of the country to have access to that market; but on the slip side of that, the United States provides a massive, huge market for Canadian business and industry in future years, if they can in fact have access to our markets. So, I think there is a good incentive on both sides to try and solve these thorny issues and work this thing out.

And I am hopeful that we will be able to do it and actually have this free trade agreement.

Senator BAUCUS. Thank you.

Senator SYMMS. Thank you very much.

[The prepared statement of Senator Symms appears in the appendix.]

Senator BAUCUS. Senator Packwood?

Senator PACKWOOD. No questions, Mr. Chairman.

Senator BAUCUS. Thank you, Steve. Our next witnesses are a panel consisting of Mr. Mark Santucci; Ms. Linda Hoffman; Mr. Steve Beckman; Mr. Thomas Hanna; and Mr. Christopher Bates.

Mr. Santucci, why don't you begin?

STATEMENT OF MARC SANTUCCI, ADVISER TO THE GOVERNOR FOR TRADE POLICY, STATE OF MICHIGAN, LANSING, MI

Mr. SANTUCCI. Thank you. On behalf of Governor Blanchard, I would like to thank you for the opportunity to present our views on the proposed free trade agreement with Canada.

Rather than address all of our specific concerns, since my time is limited and I know the other panel members will address some of these concerns, I would like to give a historical perspective of our bilateral trading relationship and highlight two areas in the proposed free trade agreement that are of particular concern to us.

You probably could not count the number of times you have heard that the United States and Canada are each other's largest trading partner. We need to look beyond this simple fact. We need to understand what this means to Canadian and to American policy makers.

More important, how do we respond in a policy sense to the reality the numbers represent? Bilateral trade between our two nations in 1987 was approximately $173 billion. This figure represents 24 percent of our total international exports, but it represents 75 percent of Canada's total exports.

Add to this the fact that, historically, much of our imports from Canada are from Canadian affiliates of United States companies, it then becomes obvious that trade with the United States is a dominant issue for Canadian government officials, while United States trade with Canada does not take on the same importance as United States trade with Japan or with the EEC.

When negotiating with Canada, our objective is always to liberalize the Canadian trade and investment regime. The Canadian objective is to protect industries important to its economy and to ensure access to the United States market. The consequences of these different strategies become obvious when we inspect the effects of past trade agreements with Canada.

Prior to the Auto Pact, the Canadian auto and auto parts industry was small and unable to compete outside the highly protected Canadian market. In the early 1960s, Canada instituted a number of different incentive and duty remission programs in an effort to promote exports and deliver a more competitive auto industry.

Most of these actions had negative consequences for the United States-based parts firms. The United States parts industry responded to Canada's duty remission program by filing a countervailing duty case against Canada.

In response to this threat, Canada and the United States negotiated the Auto Pact. The pact gave Canada the right to require the big three to produce one car in Canada for every car sold in Canada. It also allowed for side letters which required the big three to meet high Canadian content requirements.

In return, cars and parts imported into Canada from the United States were given the same treatment as parts and vehicles import-

ed into Canada from any other country. So, the United States as a country is not given any more benefits than are given any other country, even though the pact is a bilateral agreement between the United States and Canada.

During the negotiations, our goal was to allow for freer trade between the United States and Canada. Canada's goal was to build an auto and auto parts industry. The result was that the Canadian auto industry continued to be protected, and it has grown at the expense of United States-based production and auto parts firms.

Over the past 20 years we went from a net exporter of transportation equipment to a net importer.

In reading over congressional testimony related to the Auto Pact's ratification, I noted that a minority of legislators recognized that, over time, the United States was going to be disadvantaged. I submit that we are now making the same mistakes that we made in the past.

As far as I can see, our objectives in this free trade agreement were to liberalize the Canadian trade and investment regime. Canada's objectives were to obtain more favorable access to United States market, while at the same time continuing its programs to protect and subsidize favored industries.

The United States accomplishment of its goals is more perceived than real. Canada's accomplishments are more real than we perceive.

In the auto sector, the Canadian performance requirements were maintained. Those Canadian practices which were temporary and put in place 23 years ago to protect the fledgling Canadian auto industry are now recognized as permanent by both Canada and the auto makers.

Canadian duty remission programs, which are clear violations of United States and international trade law, are allowed to continue long enough to have their intended effect. The United States will grant immediate duty-free access to Canadian manufactured parts and vehicles that meet the new rule of origin. United States producers will have to wait 10 years to obtain similar treatment on exports to Canada.

Finally, the rule of origin for vehicles was set at 50 percent instead of 60 percent that many in the United States asked for. Canada refused the United States request to give more serious consideration to the concerns of Canadian and American parts producers.

Our lack of significant trade liberalization in autos is as much a result of this Administration's lack of interest as anything else. The only time senior United States Government policy makers got involved in these negotiations was when the Canadian negotiators threatened to scrap the negotiations all together. The response of our policy makers was to cave in on nearly every issue that was in dispute.

I am not surprised by Canada's recent actions in textiles and food products, nor am I surprised by our lack of a meaningful response.

Senator BAUCUS. Would you summarize your statement, please?

Mr. SANTUCCI. I have two sentences left.

Senator BAUCUS. All right.

Mr. SANTUCCI. I do believe that both parties can benefit from a true free trade agreement. I don't think that will happen until the Executive Branch and Congress become more serious in their approach to these trade negotiations. Thank you.

[The prepared statement of Mr. Santucci appears in the appendix.]

Senator BAUCUS. Thank you very much. Ms. Hoffman.

STATEMENT OF LINDA J. HOFFMAN, VICE PRESIDENT, GOVERNMENT AFFAIRS AND TRADE, AUTOMOTIVE PARTS AND ACCESSORIES ASSOCIATION, LANHAM, MD

Ms. HOFFMAN. Following on Mr. Santucci's remarks, when the FTA was first undertaken, APAA gave its negotiators one basic objective for the talks. We wanted them to rid the North American automotive market of sales and investment distorting practices.

But what the Administration accepted is a lop-sided agreement that sanctions long-standing Canadian protectionism and unfairly favors Canadian parts and car production at the expense of United States manufacturing and jobs.

Let me review again our four key concerns.

We fought to remove the local content and production rules the Canadian auto assemblers must meet to qualify as Auto Pact members. The membership rules for this powerful club require pact manufacturers to produce one car in Canada for each car sold there and to create 60 cents worth of Canadian cars and parts for each dollar's worth of vehicles sold there.

In return, club members are afforded duty-free import of cars and parts from anywhere in the world. Despite its free trade banner, the FTA would codify these protectionist and one-sided rules long opposed by our Government, and it would guarantee a commitment to Canadian vehicle production and safeguard the North American market for Canadian-built parts at American firms' expense.

We wanted Canada to end the multilateral sourcing privilege and to implement the Auto Pact as the United States does on a bilateral basis, with only United States and Canadian firms enjoying the preference.

As it stands, Canadian parts makers would continue to get preferred treatment here while United States exports would end up sharing the benefits of duty-free access with third country competitors. The good news is that Japanese and other foreign-owned transplants in Canada would not be eligible for duty-free car and parts imports; and that is as it should be.

The bad news is that the proposal puts no curbs on multilateral sourcing by the big three, which hit $2.3 billion last year. By combining the Canadian content rules and the duty-free ride accorded other country's suppliers, it is possible to envision cars built in Canada, without a dime's worth of United States content.

APAA also objects to the FTA's treatment of non-Auto Pact companies. While barring them from the Auto Pact membership and sourcing privileges, the FTA would allow Canada to continue through 1995, its secret contracts with these foreign-based auto makers.

Each deal cuts the car company's duty payments in exchange for the auto maker's commitment to Canadian car assembly and greater use of Canadian content. Speculation is that these GATT-illegal contracts have benefits equivalent to pact membership, but we are not sure because United States negotiators agreed to allowing them to continue without actually taking a look at what the agreement is saying.

The bottom line, Mr. Chairman, is that Canada ensures that nonpact members who cannot escape the duty nevertheless would enjoy the fruits of this trade-distorting duty rebate program for as many as seven more years. Despite the fact that there is a growing overcapacity of cars and parts production in North America, the FTA is silent on the crucial matter of Canada's substantial investment subsidies.

Canada already sells itself to foreign suppliers as the ideal base for launching parts duty-free into the huge United States market. By allowing Canada to add investment subsidies to their auto policy quiver, we might as well draw a target over America. Japanese, Korean, and other foreign-owned supplier migrants lured here will gain a distinct competitive advantage in Canada's back door to the vast United States market.

To summarize, what we have proposed as the United States under the FTA is neither bilateral nor fair in its treatment of fully one-third of the United States trade with Canada, that is, automotive parts and cars.

The future of American suppliers in the North American market depends on our success in building reciprocal free trade between Canada and the United States, and our industry's place in the global auto industry also hinges on our ability to rid North America of protectionism.

Failure to dismantle Canadian barriers would make it hard for the United States to press other countries to remove similar barriers to American auto parts exports, but we believe that success will benefit United States and Canadian parts makers alike.

Mr. Chairman, we ask this committee to help direct our negotiators back to the table to renegotiate the key issues that we have discussed, with the goal of genuinely free bilateral automotive trade.

Senator BAUCUS. Thank you very much.

[The prepared statement of Ms. Hoffman appears in the appendix.]

Senator BAUCUS. Mr. Beckman.

STATEMENT OF STEVE BECKMAN, INTERNATIONAL ECONOMIST, INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW), WASHINGTON, DC

Mr. BECKMAN. Thank you, Mr. Chairman. I will try to be brief because a number of the points I wanted to make have been stated already. I will try to raise them in a way that is somewhat different from the way they have been discussed thus far.

The UAW has serious problems with the auto sections of the agreement and other sections of the agreement as well. I will dis-

cuss the auto provisions first and the other provisions of the agreement afterwards.

First, as has been mentioned, the Canadian safeguards protect an already disproportionate share of North American production in Canada. The Canadian safeguards have operated in such a way as to encourage assembly capacity to be built in Canada.

The FTA codifies those safeguards and will continue them, and this is of particular concern to us because the United States auto industry is currently facing a fairly large excess capacity problem, and capacity of North American producers is going to be cut in the near future.

The continuation of the safeguards puts a tremendous impetus on the North American companies to close United States rather than Canadian plants so that the companies will continue to meet the Canadian safeguards and thereby qualify for the duty-free benefits of importing into Canada that they are allowed under the Auto Pact.

That is a problem created by the implementation of the Auto Pact. It is something that has been in existence for a long time. With the additional producers in the North American market, it has become a greater problem for the industry. The FTA has not solved that problem.

The UAW, by the way, initially proposed that the United States adopt a production requirement similar to the Canadian requirement in order to resolve just this issue in order to make sure that, in the case of capacity reduction, it would not be disproportionately in the United States or in Canada, but would be equitably shared.

Second, the rule of origin adopted by the FTA, and from our point of view, is too low to promote additional production in employment in the United States parts industry or to even sustain the current level. The big three auto producers have increased their foreign sourcing fairly dramatically in the last several year and under the FTA's rule of origin would be able to increase their foreign sourcing and easily meet the 50 percent direct cost of manufacturing rule that was adopted.

This would be bad enough and would be harmful enough to the United States parts industry, but the rule of origin also affects the transplants, the foreign companies that have located production plants in Canada and in the United States.

Under the rule of origin adopted, these plants, which import a very large share of the parts that they assemble into vehicles in the North American plants, would not be required to increase their domestic sourcing very much, if at all. This is going to have an adverse effect on United States parts producers.

As the share of the North American market provided by these transplant producers increases in the next few years, we will see job losses in the parts industry as a result. A higher rule of origin would have protected those jobs and would have done so merely with the lever of the United States tariff, which is admittedly low at 2.5 percent.

In fact, the only benefit that companies achieve by meeting the rule of origin, coming from Canada into the United States, is avoiding this 2.5 percent duty. Raising the rule of origin is not going to

require domestic production; it is not going to require anything of any particular company or any particular producer.

All it does is require that they increase their North American value in order to qualify for being exempted from the 2.5 percent duty. The UAW in 1976, when the Auto Pact was first revisited by this committee, proposed a 75 percent value-added rule of origin in order to qualify for duty-free treatment. We repeated that recommendation when these negotiations were under way, and we support a minimum 60 percent direct cost of processing rule of origin to be achieved by these negotiations and by the agreement between the United States and Canada.

Third, the transplants that are located in the United States are going to face significant tariff limitations going into Canada for the next 10 years. The Canadian duty of 9.2 percent will be eliminated in 10 years.

At the same time, the transplants that are located in Canada can currently enter the United States duty-free, and those that will be in production in the future will be allowed to enter the United States duty-free from the beginning of their operation. United States transplants do not have that benefit.

The duty remission program, which allows companies that have located production in Canada that do not qualify for the Auto Pact, will remain in place until 1996, providing subsidies for Canadian parts production to the detriment of United States parts production; and the United States industry will suffer as a result.

The only transplant that was given special treatment in these negotiations was the GM-Suzuki joint venture, which will be allowed to become a member of the Auto Pact even though it is currently not producing, as is required in general in the agreement. This will allow General Motors and Suzuki to import parts duty-free into Canada, subsidizing their imports and the high value of foreign content in the vehicles that will be sold primarily in the United States.

The other provisions that concern us have to do with the effect on United States trade laws of the FTA. The subsidies and dumping provisions in United States law are going to be negotiated over the next 5 to 7 years with Canada.

The Section 201 provisions were changed in the agreement. We find this to be extremely disconcerting. The changes in United States law should be predicated on the needs and the concerns of American interests and not on the bilateral needs of the United States in taking into consideration the Canadian concerns with the implementation of our laws. We believe that this is going to be detrimental to the interests of American workers.

On these grounds and on the basis that the agreement is not, in fact, a free trade agreement—it is misrepresented—it is in fact a standstill agreement which permits excessive Canadian intervention in the economy to remain and prevents the United States from taking necessary intervention in the economy by making it illegal under the agreement.

We believe that the agreement does not meet the criteria that would be necessary for our support and hope that you will understand our point of view and try to make needed revisions in the agreement.

[The prepared statement of Mr. Beckman appears in the appendix.]

Senator BAUCUS. Thank you, Mr. Beckman. Mr. Hanna?

STATEMENT OF THOMAS H. HANNA, PRESIDENT AND CHIEF EXECUTIVE OFFICER, MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE UNITED STATES, INC., WASHINGTON, DC

Mr. HANNA. Thank you, Mr. Chairman. I am Tom Hanna, and I am President of the Motor Vehicle Manufacturers Association of the United States. MVMA's member companies produce more than 97 percent of United States built automobiles, trucks, and buses.

For the record, I wish to note that the statement that I am filing in support of the automotive provisions of the free trade agreement is presented on behalf of all of our member companies, which include Chrysler Corporation, Ford Motor Company, General Motors Corporation, Honda of America Manufacturing, Incorporated, M.A.N. Truck and Bus Corporation, Navistar International Transportation Corporation, PACCAR, Incorporated, and Volvo North America Corporation, manufacturers of vehicles in the United States.

Having reviewed the automotive terms of the free trade agreement very carefully, MVMA and its member companies believe that it is a good and solid agreement for this industry, and one that we believe advances United States national interests as well.

The automotive provisions of the FTA are a reasonable and fair compromise of each government's objectives and special concerns. It takes on and resolves most of the trouble spots which were developing in the United States-Canadian auto trade relationship in recent years.

For the traditional United States domestic companies, the agreement preserves the duty-free status of the 1965 Auto Pact, but it also offers the possibility of free trading rights for the new companies establishing plants in North America.

I would like to address briefly just three issues which have been the source of some discussion since the terms of the agreement were announced and again here this morning. The first is duty remission.

In the early 1980s, the Canadian government began offering a new duty remission program for auto products as an investment lure for foreign auto companies interested in setting up operations in North America. Up until now, these programs have not involved a lot of money or built up enough steam to cause serious problems, but the potential for a major trade distortion was there.

The free trade agreement would settle the duty remission issue for this industry. One form of duty remission available to companies which were not members of the Auto Pact, as a reward for exporting from Canada, will end immediately when the agreement goes into effect.

A second form of remission, which the Canadian government granted to four companies in exchange for specific investment commitments, will be phased out and terminated when each agreement expires. While the agreement does not wipe out the whole program immediately as we had hoped, the United States did secure Canadi-

an agreement to stop this approach to automotive investment and to shut it down completely as individual commitments to these companies expire in the coming years.

That is a compromise that we can live with.

The second issue is the rule of origin. One of the subjects in which there was considerable discussion between ourselves and the United States Government during the negotiations was on the so-called rule of origin.

At first, the Administration wanted a single rule to apply to all products and suggested 35 percent, which is the standard which currently applies in the United States-Israel Free Trade Agreement and in the Caribbean Basin Initiative; but we advised them that 35 percent was too low for the automotive sector.

Now, at the beginning of the negotiations, every MVMA member company had a somewhat different view of what the particular percent should be. MVMA, representing the industry compromise position, recommended a 50 percent rule of origin to our negotiators; and 50 percent was what was agreed to.

I know that some felt that this figure should have been 60 percent or higher. As a matter of fact, under certain conditions, most of our members could have accepted 60 percent; but the point is that we think the 50 percent rule will do the job that it was designed to do, and that is to ensure that the benefits of the agreement go to companies and products which can fairly be considered as American or Canadian.

The third issue is the existing Auto Pact. As you know, the traditional North American vehicle manufacturers are part of an agreement known as the Auto Pact. This agreement has had an enormous effect on the structure of the automotive industry in North America.

Before 1965, there were separate industries built in each country, one for Canada and one for the United States. It was very inefficient and costly for producers and consumers.

To improve the trading relationship, the Auto Pact was established. At that time, Canada feared that many of its automotive plants and jobs would move over to the larger United States market because of their fears that their auto industry was entirely owned by the United States parent corporations.

So, they asked the auto and truck manufacturers to make certain commitments back in the 1960s which are now called safeguards. The United States Government did not object at the time, and so the Auto Pact companies agreed to these commitments; and over the years, the Canadian government has made them a permanent feature of their automotive policy.

We did not understand them to be permanent at the time, and there is still objection from some in the Administration and Congress over the continuation of the safeguards in the Auto Pact. However, the safeguards are now irrelevant to most of our companies' operations.

Auto Pact members now so far exceed these requirements that, as far as we can project into the future, they will have no practical effect on our companies' operations.

May I complete my statement, Mr. Chairman, please?

Senator BAUCUS. One minute.

Mr. HANNA. We told that to our negotiators and said that, if the Canadians insisted that there could be no free trade agreement without keeping the Auto Pact intact, we could accept that.

In summation, I wish to emphasize that the 1965 Auto Pact has been good for the American economy and good for United States workers. Bilateral trade expanded tremendously over the last 23 years. Under the Auto Pact, approximately 90 percent of automotive industry jobs were retained south of the border and over 90 percent of the investment in new plant and equipment has been in the United States

The proposed free trade agreement will continue and expand this relationship. Mr. Chairman, I have come here to speak in support of the free trade agreement. It is not a perfect agreement. We think on balance it is a very good agreement, and we would like to work with you and the Congress to secure the passage of the implementing legislation. Thank you very much.

[The prepared statement of Mr. Hanna appears in the appendix.]

Senator BAUCUS. Thank you, Mr. Hanna. Mr. Bates.

STATEMENT OF CHRISTOPHER M. BATES, DIRECTOR OF POLICY ANALYSIS, MOTOR AND EQUIPMENT MANUFACTURERS ASSOCIATION, WASHINGTON, DC

Mr. BATES. Thank you, Mr. Chairman and other members of the committee. We greatly appreciate the opportunity to testify before you today on an agreement which has wide ramifications for our industry.

We believe that the free trade agreement contains some benefits, including the reduction on tariffs on replacement components. On balance, though, we feel that the agreement is a major disappointment. Above all, it fails to provide the strong 60 percent North American rule of origin which a very broad cross section of the United States and Canadian motor vehicle and motor vehicle parts manufacturing industries had recommended.

We believe that such a rule would promote long-term growth and increased competitiveness of the parts industry and the overall industry and that it would ensure, to a much greater degree than the 50 percent rule contained in the agreement, that North American producers are the primary beneficiaries of this agreement.

We believe that it is essential for four major reasons.

First, we believe it would encourage a much more rapid increase in purchases from United States parts suppliers by North America affiliates of Japanese and other foreign vehicle producers. In particular, it would give new assemblers in North American greater incentives to expand purchases of engines, transmissions, and other high-value-added, advanced-technology components.

This business is of strategic importance to our industry as the number of imported and transplant vehicles sold in North America rises dramatically.

Second, we believe that a 60 percent rule of origin would foster and, in fact, maintain and ensure that traditional North American manufacturers continue to have strong incentives to buy in Canada and the United States, rather than going to third country sources.

Third, we believe that a 60 percent rule of origin would partially offset existing incentives in United States law to expand parts imports such as foreign trade zones, the GSP program, tariff provisions 806 and 807, and the remaining multilateral duty-free sourcing privileges that are contained in the Auto Pact and applied to Canadian Auto Pact members.

Fourth, we believe that a 60 percent rule of origin is essential to improve the long-term balance in the free trade agreement in terms of the benefits which accrue to Canadian and United States producers. This is in view of the continuing Canadian Auto Pact safeguards and only gradual phase-out of Canadian duty remission programs.

MVMA recognizes that there are other provisions in the free trade agreement affecting our industry which are of concern and which, in fact, fall well short of our original hopes and expectations. We have chosen to emphasize the need for a stronger 60 percent rule of origin because we believe it has greater commercial value to United States parts manufacturers, particularly over the longer term, than other changes which have been proposed.

To improve the free trade agreement, MEMA urges Congress to, one, provide language in FTA implementing legislation that would require further United States consultations with Canada to seek a stronger rule of origin. Two, we would like to see Congress grant the President necessary authority to implement a stronger rule of origin provision, should the Canadian government, based on further consultations, agree to do so.

Third, we would like to see Congress establish a clear mandate for the select panel of industry experts which is called for in Section 1004 of the agreement. This mandate should include, in our view, a one-year deadline for completion of recommendations to the President on ways that the rule of origin and other automotive provisions in the FTA could be enhanced.

Thank you very much for your consideration of our views. I would be pleased to respond to any questions which you might have.

[The prepared statement of Mr. Bates appears in the appendix.]

OPENING STATEMENT OF HON. LLOYD BENTSEN , A U.S. SENATOR FROM TEXAS, CHAIRMAN, SENATE COMMITTEE ON FINANCE

The CHAIRMAN. Thank you very much, gentlemen.

Senator Baucus, do you have questions that you would like to ask?

Senator BAUCUS. Thank you, Mr. Chairman. I would like to ask Mr. Santucci a question. The Auto Pact is intended to be provisional, and this agreement, if it is ratified by the Congress and the Canadian Parliament, also is intended to be provisional.

I am wondering what suggestions you have as to how, in the implementing language, we can encourage or direct the President or the Administration to continue to negotiate to try to reduce some of the rigidities and some of the problems that the Auto Pact presents to America. How can we make sure that we continue to keep the pressure on to try to reduce these problems?

Mr. SANTUCCI. I don't know if we can, Senator, unless we are willing to drop out of the Auto Pact.

I think what happens is that when you have an agreement, whether it is called a temporary agreement or a permanent agreement, forces come into play over time which make it permanent and which argue against any change. That is the same in any Government program as it is in an international treaty or an agreement.

So, I think the longer the agreement stays in place, the less likelihood there is for any changes whatsoever; and this is what happened in the Auto Pact.

A de facto transitional period existed between 1965 and 1970, and probably through 1975, where the Big Three and the larger international United States auto parts companies made the necessary investments in Canada to comply with the provisions of the agreement. Once those investments were made, there was no longer a lobbying force of any magnitude intent on eliminating the "temporary safeguards."

As Mr. Hanna testified, the Big Three are very happy with the agreement, and they should be. It is a good agreement for the companies; it is not a good agreement for production and investment in the United States because it codifies for Canada certain protectionist measures.

This agreement will do the same thing, although not to the same extent as the Auto Pact. We have a problem here in the United States in that, as our economy becomes more global, we no longer have companies speaking for the best interests of the country. They are speaking for their own best interests and rightly so.

I own quite a few stocks, and I would hope that the companies I own stock in speak for their and my interests. However, I represent the State of Michigan, and I am speaking for Michigan's interests—the interests of our economic base and the workers in our State.

And I am telling you that I don't think that you can put something in the implementing legislation which would have a meaningful effect, 5 years from now if we see a problem, of that problem being addressed because it will be a problem of a particular area or a particular country, not of the industry because the industry has been integrated—the North American auto industry.

Senator BAUCUS. One quick question. Some point out that this is a good deal for America because of the tremendous growth in auto trade between our two countries since the original Auto Pact was negotiated. That is, since 1965, there is a rise of from $700 million in auto trade between our two countries to now about $46 billion.

They argue that that has a net benefit for both the United States and Canada. What is wrong with that argument?

Mr. SANTUCCI. I think that is a perfectly valid argument. The only thing that I would say is the time the safeguards are put in place for Canada was to protect an uncompetitive fledgling industry. That is no longer the case.

We have benefited and Canada has benefited. The question becomes that the United States is ten times the size of Canada. So, our mentality always is: Let's let them do this, this, and this to

protect themselves, to help themselves, because we are the big brother to the south.

But you have to look at the industry in the micro sense. It is made up of thousands of small companies as well as a few very large companies. By allowing certain protectionist measures to be maintained in Canada, you are hurting individual companies.

The country as a whole is not hurt that much, but many individual companies are hurt; and the only thing we are saying is: Let's make the rules the same on both sides of the border. We are not saying: Give us special rules against Canada.

Let's just make it the same. You shouldn't look at the size of an economy to determine how competitive a country or an industry is. Taiwan and Korea are very competitive, and they are much smaller than the United States.

We should look at it on a company level and an industry level, not comparing countries.

Senator BAUCUS. Thank you.

The CHAIRMAN. Thank you very much. Senator Packwood.

OPENING STATEMENT OF HON. BOB PACKWOOD, A U.S. SENATOR FROM OREGON

Senator PACKWOOD. Mr. Santucci, you are appearing on behalf of the governor today. Right?

Mr. SANTUCCI. Yes.

Senator PACKWOOD. If no changes are made—we have to vote on this, up or down, the way it is now—is the governor's position to support it or oppose it?

Mr. SANTUCCI. He hasn't made a final decision on up or down. As you may know, Michigan is in the process of filing a 301 complaint against the duty remission program.

Senator PACKWOOD. Yes.

Mr. SANTUCCI. To date, the Administration has not given us much support on this particular case. It really boils down to this: We believe the duty remission program as it is maintained in the free trade agreement does two things that create large problems for us.

One, it allows for another 7 years the production based duty remissions, which will hurt the ability of our companies to compete for business in Canada. Two, it sends a signal to Mexico, Korea, Brazil—other countries that have these performance requirements—that if it is all right for Canada to continue them for another 7 to 10 years, how in the upcoming GATT negotiations can we get any discipline with countries that have a more legitimate argument?

Their infant industry argument is much more legitimate than Canada's argument. How can we get them to have any discipline at all in that area? That is a major concern of ours, and we don't believe the Administration is taking us seriously yet on these points.

Senator PACKWOOD. So, the upshot of it is in terms of the free trade agreement, the governor's position is kind of on hold for the moment; and we will see what happens over the next two to three months?

Mr. SANTUCCI. Yes.

Senator PACKWOOD. All right. Now, Ms. Hoffman, you have testified that you have been trying to eliminate the Canadian local content and production standards included in the Auto Pact. Really, if you urge the elimination of these standards and you are successful at getting rid of the standards, aren't you in essence calling for the abolition of the Auto Pact?

Ms. HOFFMAN. There are a variety of provisions within the Auto Pact that go beyond the protectionist elements that were put in there for the benefit of Canada. It seems to me that that is what the ultimate goal should be if we are going to deliver on the promise of free trade and fair trade.

Senator PACKWOOD. The ultimate goal ought to be the elimination of the Auto Pact?

Ms. HOFFMAN. The ultimate goal should be the elimination of trade-distorting provisions, whatever they may be, within the Auto Pact on a bilateral basis. I think that should certainly be the long-term goal.

We had hoped that the negotiators would have gotten much closer to that goal under this last round of negotiations. Obviously, from our testimony, it is quite apparent that we feel they fell very short of that goal.

Senator PACKWOOD. Absent any free trade negotiations at all, is it the goal of your association to want to get rid of the Auto Pact?

Ms. HOFFMAN. It is the goal of our association to get rid, as I said earlier, of the trade-distorting elements that may be found within the pact, not only between the United States and Canada, but between the United States and any and all countries that we do business with.

It is very difficult to sanction and sanctify these elements under what is billed as a free trade agreement and then turn to our other trading partners and ask them to bury the similar barriers; and yet, that is what our Government has continuously told us they are trying to do in their battle against foreign trade barriers.

It seems to me that we are setting up a very poor model here. Secretary Verity has suggested that we may be looking for a similar FTA with Mexico over the next 2 years. I suggest we may want to rethink that before we begin that round of negotiations.

Senator PACKWOOD. Then, your conclusion is this, from your association's standpoint: If you can't get a better deal on the Auto Pact than you think we have gotten in the negotiations, you oppose the free trade agreement?

Ms. HOFFMAN. We believe there are elements of the free trade agreement that should be renegotiated.

Senator PACKWOOD. Should be renegotiated?

Ms. HOFFMAN. That should be renegotiated. That may mean a "no" vote on this agreement, but we are not saying it should stop there. We are saying that there should be negotiations; perhaps the goal should be somewhat different. We should take into account the fact that there have been a number of distortions in the past that should not be allowed to continue.

Senator PACKWOOD. I think I hear what you are saying. If they are not renegotiated now in this pact, you want this free trade agreement turned down.

Ms. HOFFMAN. If there cannot be any side agreements or changes in the implementing legislation—and that, of course, is not our determination to make—then I would have to say "yes" with the proviso that subsequent negotiations should begin immediately toward those goals.

Senator PACKWOOD. Mr. Beckman, let me ask you an almost identical question. It seems to me that your major objection to the free trade agreement is that we got a bad deal when we negotiated the Auto Pact in 1965, and this free trade agreement doesn't undo the bad deal very much; and therefore, you are opposed to the free trade agreement. Do I read it correctly?

Mr. BECKMAN. The full extent of our concerns with the agreement are not just with the Auto Pact but with other provisions in the auto area and in other areas of the agreement.

Certainly, we have proposed that there be changes negotiated in the Auto Pact, not essentially because it was a bad deal in 1965, but starting around 1980 the North American industry began to change rather substantially with foreign country producers locating in the United States for the first time.

That required a reassessment of the Auto Pact; that reassessment has not been made. The United States and Canada did not substantially discuss how the Auto Pact affects North American production, given the location here of foreign producers; and the proposals that we have made, we think, would be beneficial for the North American industry to put in a United States production requirement similar to the Canadian requirement and to raise the value of products qualifying for duty-free trade.

Certainly, if these provisions are not renegotiated, if other parts of the agreement with which we have significant problems are not renegotiated, we certainly would oppose the agreement.

Senator PACKWOOD. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Riegle, you could not be here at the beginning because of some commitments downtown, and I understand you would like to make an opening statement and also ask some questions.

Senator RIEGLE. I would, Mr. Chairman.

The CHAIRMAN. We will agree to that under these unusual circumstances.

OPENING STATEMENT OF HON. DONALD W. RIEGLE, JR. A U.S. SENATOR FROM MICHIGAN

Senator RIEGLE. I thank the chairman and I thank my colleagues. We were recognizing a Grand Rapids organization at an awards ceremony downtown; and I do want to make some brief opening comments before going to questions.

I think it is very important for us to recognize, in considering the impact of the free trade agreement in the automobile area, that more than one-third of the total trade between the two countries relates to the automobile industry. So, this is really the largest single item.

The auto industry here in our own country is really one of the best customers for a whole range of key products—iron, steel, glass, lead, computer chips, textiles, electronics, and others. The base of

the automobile industry is not just where final assembly occurs, which occurs now many places in the country; but we have fully 46 States that are significant suppliers to the automobile industry.

Now, I think there are two provisions that cause the most serious concern in the proposed free trade agreement. They have been talked about this morning.

One is the continued protection of the Canadian auto parts industry by keeping production-based duty remission until 1996; and the rule of origin, which needs to be raised to 60 percent. The United States negotiated the duty remission section without ever seeing the contracts the Canadians have with foreign auto companies.

The United States Trade Representative requested these contracts, or written commitments from Canada, on January 29th. It would seem to be appropriate to have this information before us prior to the time that we consider the implementing legislation. I would hope that that information would be forthcoming.

There really is no excuse for it not to be on the table, and I would hope that the committee could strengthen the request of our Government to see that we have it.

The seven-year continuation of the duty remission program is more damaging than it would appear. It will affect the future sourcing decisions of foreign-owned vehicle manufacturers, as some of our witnesses have said today, in Canada long after the remission is eliminated.

It will lead to more United States parts producers locating in Canada in order to compete with Canadian parts producers for these new transplants locating in Canada. Providing cash incentives to Japanese and Korean car makers in Canada to use Canadian parts can only cost United States jobs.

The rule of origin should have been increased to 60 percent; it is in the interest of both the United States and Canadian auto industries. It would make it impossible for a Japanese or Korean transplant to receive duty-free treatment under the FTA unless these cars contain North American engines and drive trains.

But with a 50 percent rule of origin, they can continue to import these parts, which hurts both United States and Canadian workers; and I will continue to seek at least two changes in the implementing legislation to clarify existing provisions.

First, I believe the select panel to assess the state of the North American auto industry needs to be clarified. Right now, the section only says the panel should be comprised of informed persons.

The goals of the panel are laudable, to assess the state of the North American industry and proposed public policy measures and private initiatives to improve its competitiveness in domestic and foreign markets.

The implementing legislation should be more specific as to which sectors should be represented on the panel.

We should also set a date for the panel to meet and to make an initial report. Issues such as the rule of origin and duty remission as well as others should be listed as among those the panel should consider.

Second, if we are serious about revisiting the question about an increased rule of origin, the President needs authority to negotiate

such an increase so that it can be put into place as expeditiously as possible. At a minimum, we should ensure fast track consideration of such a change.

I am going to put the rest of my statement in the record, and I will just conclude with this thought. There is a lot in this agreement—some good, some bad.

You have heard the previous witnesses with respect to the energy aspects and other things that one can score on one side of that ledger or another. There are major problems in the agreement with respect to the automobile sector.

I have written over the past year a number of times to both the Secretary of the Treasury and to the Trade Representative—on October 15, 1987, November 8, 1987, November 17, 1987, December 15, 1987, January 15, 1988, and so forth—asking for clarification actions in nailing down these items.

Frankly, I have never gotten a satisfactory response. It seems to me that the statements made by some of the witnesses today, that the Administration at the highest level was not intently focused on these issues in the long period of the negotiations, is an accurate statement.

I think they got in at the end of the game, more so than along the way, especially when the Canadians were playing hard ball with the threat to scuttle the whole thing. And I think these issues have not been given the attention and the refinement that they need to have.

How one nets out on the treaty is very hard, at the moment, to judge; and I am not sure whether I will be for it or against it. It will depend importantly on whether or not we can work some of these items out.

With that, Mr. Chairman, if I may, I would like to address just a few questions to the representative from Michigan, Mr. Santucci.

The CHAIRMAN. Yes, of course. We will start your time limitation as of now.

Senator RIEGLE. Thank you. Given the enormity of the automotive trade between the two countries, do you think the Canadian negotiators had a strategic plan for the automotive sector when talks began with the United States on the FTA?

Mr. SANTUCCI. There is no doubt about that. The chief Canadian negotiator, Simon Reisman, was the person who negotiated the Auto Pact for Canada in 1965.

One of the problems that I think we had in addressing the auto issues is that he took a much more personal role and had much more of his personality at stake in the negotiations and, in fact, was much more knowledgeable as a negotiator in the area than our negotiators were.

It is obvious from how the negotiations played out that the Canadian government had a much better planning process, more knowledge of the implications of the various negotiated elements, than we did.

You mentioned in your statement that the Canadian duty, reduction-based duty remission orders or agreements were never given to the United States negotiators. So, we agreed to continue something in which we have no idea what it says.

Senator RIEGLE. We didn't see it. We didn't insist on seeing it, and I really think that is just improper. I think there is no excuse for it, then or now, for the Administration to walk away from that fact.

I take it then that, by inference, you are saying that you would also then have not seen a sense of the same kind of strategic plan for the automobile industry on the part of our negotiators?

Mr. SANTUCCI. No, we didn't; but in defense of our negotiators, the effort, the money, the priority, were not put on for our side that it was for the Canadian side. I hearken back that 78 percent of the Canadian exports go to the United States; 25 percent of United States exports go to Canada.

Peter Murphy and Bill Merkin did a very good job with the resoures they had, but they still today don't really know the implications of the agreement, what it means to our economy or to various regions of our country, because they have not been given the resources to look at those questions.

Senator RIEGLE. Let me ask you this: How will a continuation of the production-based duty remission program for another 7 years affect the United States parts industry in future investment; and, very specifically, your best judgment as to how it will be affected in Michigan?

Mr. SANTUCCI. I think Michigan, Ohio, Indiana, and New York stand to lose the most or gain the most by what happens with regard to the duty remission program. If the duty remission program is allowed to continue for another 7 years, we believe that most of the new investment to service the Canadian producers—Toyota, Honda, GM-Suzuki, and Hyundia—will locate in Canada because it gives the manufacturers a nine percent benefit.

We also believe that many of the contracts given to existing parts suppliers will be given to Canadian-based suppliers. Therefore, we believe that once that remission program ends, the benefits don't end because, if you build a plant, you build that plant to operate for 20 plus years.

If you work with the Japanese companies and develop a relationship, that relationship is not going to end after 7 years just because the duty remission program ends.

We have already talked with some of the Japanese auto producers, and they have clearly stated to us that, once they establish a relationship with a supplier, when the duty remission program ends, that relationship is not going to end.

Senator RIEGLE. I am going to ask some other questions for the record, but I want to address a question to UAW. That is, you have gone through a situation where your international union has split the Canadian piece off from the American UAW movement.

Can you give me just a sense for what you think the job impact has already been in the United States, in terms of the trade relationship back and forth in automobiles, and what you think it is likely to be, based on the trade agreement that has just been negotiated?

What are we looking at in terms of further job impact?

Mr. BECKMAN. Let me say that the trade balance in the auto industry between the United States and Canada has gone from a

modest surplus on the United States side to a rather substantial deficit in the last 5 or 6 years.

So, things have changed quite substantially in the recent past. Employment in the United States industry is currently about 25 percent below what it was in 1978, and the Canadian industry employment in Canada is higher than it was in 1978.

So, I think there has been a substantial change in the beneficiaries of the agreement. In the future, for a number of reasons, we certainly expect there to be substantial employment declines in the auto industry.

Senator RIEGLE. Substantial employment declines in the United States auto industry?

Mr. BECKMAN. Yes, substantial employment declines in the United States auto industry. There are a number of factors.

Senator RIEGLE. Because of the trade agreement.

Mr. BECKMAN. Well, there are a number of factors contributing to that. It is very difficult to isolate the trade agreement as a contributor to that job loss, especially since we don't know exactly what the balance of production and sales between the United States and Canada of the new investments is going to be; but if the future corresponds to where our previous experience has led us——

The CHAIRMAN. I will have to ask you to summarize, Mr. Beckman. The time has expired.

Mr. BECKMAN. All right. There are probably tens of thousands of jobs in the United States that will be affected.

The CHAIRMAN. Thank you.

Senator RIEGLE. In just the auto sector, that would be your best estimate?

Mr. BECKMAN. Yes.

The CHAIRMAN. Thank you very much.

Senator RIEGLE. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Danforth.

Senator DANFORTH. No questions, Mr. Chairman.

The CHAIRMAN. Senator Bradley?

OPENING STATEMENT OF HON. BILL BRADLEY, A U.S. SENATOR FROM NEW JERSEY

Senator BRADLEY. Thank you very much, Mr. Chairman. The panel knows that under the agreement there are working groups established in a variety of areas—subsidies, agriculture, immigration, etcetera. Autos is one of those working groups.

What I wondered is, if the panel had suggestions for the committee with regard to any negotiating objectives for these working groups? If the agreement is adopted, we will then establish working groups, or working groups can be established; and I wondered if you could share with us what you see as the negotiating objectives of that panel, any structure that you would like to see that panel take, or any members of that panel?

Mr. BATES. If I could, I would like to make a few comments on that?

Senator BRADLEY. Yes.

Mr. BATES. We have done a little bit of thinking about this question. Based on the negotiations during their final phases, it seems

to me that there already is a very broad concensus for a stronger rule of origin in North America.

What we would like to see is to have this working group get together very promptly, assuming the agreement takes effect, and to have roughly a one-year mandate to present some initial recommendations to the Administration and Congress which would allow for resolution of issues which could be handled immediately; but there could also be a continuing mandate, and I think that was, in fact, contemplated in the agreement as it was structured.

It was recognized that this is a dynamic industry, that it is going through a lot of wrenching changes, that there is going to be more evolution over the next 5 to 10 years.

In terms of membership on such a group, I think we would want to——

Senator BRADLEY. Let's just stop there. So, you are suggesting a one-year deadline and AN immediate focus on rules of origin?

Mr. BATES. And if a concensus could be developed on other outstanding issues, then that would be appropriate as well. It is not clear to me at this point in time that there necessarily is that concensus, since some of the other issues were much more contentious during the negotiations.

That doesn't mean we should abandon all efforts to get to those.

Senator BRADLEY. If the panel could, when you are making your suggestions on negotiating objectives, try to do so not only in terms of a very specific number but make the recommendations on the objectives in a way that justifies the objectives. In other words, tell us why that number is important or why a particular, specific objective is relevant for us to consider in implementing legislation.

Mr. BATES. All right. My sense on the rule of origin provision, as I outlined in my testimony, is that in terms of the total amount of trade affected, you have a much broader base than is affected potentially, I think, by the other areas of concern. We are really talking about the extent, the level of commitment of all manufacturers to the North American market, and specifically to the sourcing of some of the advanced technology components. With a stronger rule of origin, you are going to get much more sourcing in North America, and particularly we think in the United States.

Mr. Bradley. Structure of membership thoughts?

Mr. BATES. All right. There, we think that it must be broadly representative. It should include members of both United States and Canadian industries, perhaps with government observers who would play an active role but would not have a definitive veto or vote necessarily in terms of the outcome; but of course, they would be plugged into the evolution of the process as it developed and, therefore, able to pick up any recommendations and move very quickly with them.

Senator BRADLEY. So, you would envision this working group getting together, having a very specific agenda. At the end of a year or a year and a half they would come forward with suggestions for action in both countries?

Mr. BATES. The idea is to use this as a tool to build concensus.

Senator BRADLEY. Right. Any other panel member wish to comment?

Mr. HANNA. If I may make an observation on that?

Senator BRADLEY. Mr. Santucci had his hand up first.

Mr. SANTUCCI. Two things. I think that the panel members should include representatives of the smaller auto parts manufacturers, both in the United States and Canada, that do not have international operations. I say this for two reasons.

One, for the most part, they have no idea what goes on in Washington and how it affects them; and I think they need to be brought into the process of how governments affect their business. Two, they have a completely different view on the effect of various programs or agreements; and I think that that view is really never heard because they don't have any representation in Washington.

And I think it would be useful for them to have that.

In addition, I think either States or regions should be represented because the way our tax system works the health of our school systems, and other parts of our infrastructure, is dependent upon the health of the industries in our States.

From Michigan's point of view, the auto industry is 50 percent of our manufacturing base.

The CHAIRMAN. Mr. Santucci, if you will summarize? Your time has expired.

Mr. SANTUCCI. Therefore, we need to have representation on such a panel.

The CHAIRMAN. Thank you. Gentlemen, I look at this two-page ad put out by the Canadian automobile workers, and what it talks about is this. It says: "Canadians have a medical system that guarantees everyone good health care"—not just those who can afford it.

"We have social programs that address the needs of the elderly, the needy, the homeless, the sick." It goes on through it. All of that is what free trade would jeopardize—adamantly opposed to the agreement.

Mr. Beckman, you represent the automobile workers on this side. You are both opposed to it. How can you both be right?

Mr. BECKMAN. If you look at major areas where the Canadian auto workers are opposed to the agreement, it has to do with the ability of governments to intervene in the economy.

The CHAIRMAN. Yes, but I am talking about overall. As you look at this agreement, you don't just say it is 65 percent good; you are either for it or against it. You vote one way or the other.

Mr. BECKMAN. Right. I think the bases on which we each oppose the agreement are quite different; and the issue primarily for the Canadian auto workers and the labor movement in general in Canada is that the sovereignty of the Canadian government would be compromised by opening access in a number of different industries and increasing competition with American producers and the American governmental system and the production system in the United States.

That, I think, is the basis of their objection. In Canada also, and specifically in the auto industry, the union is more interested in extending the Auto Pact to all producers in the industry, not simply those currently covered.

They have been promoters of the duty remission program as a way of transitioning non-Auto Pact producers into commitments under the Auto Pact.

We don't have a particular objection to that, except that it requires that those producers increase their Canadian production. We have no comparable benefit on this side to require United States production of those same producers.

The CHAIRMAN. All right. Let me ask you another question because I get conflicting reports. As I understand it and as I heard your testimony, you were talking about the fact that, in the beginning of this pact, we had a surplus insofar as automobile production.

Now, that has gone to a substantial deficit, as I understand you, and a substantial drop in jobs. Now, I read Mr. Hanna's testimony, which was apparently given before I arrived here—I was in my other meeting—and he says that the United States share of North American auto employment has remained stable at about 89 percent, and United States exports to Canada were $21 billion in 1987.

Let me see if you gentlemen can reconcile those numbers and make me better understand it.

Mr. HANNA. Thank you, Mr. Chairman, if I may speak to that? You know, the numbers aren't really particularly debatable; they are what they are, and those——

The CHAIRMAN. Yes, but I have a hunch that they are really not comparable.

Mr. HANNA. No, but the fact is that the employment in the United States in the auto industry has, over the past 5 years, to take a range, has been somewhere between 88 and 91 percent, which means that 90 percent of the employment is south of the border.

Over that same period of time, well over 90 percent of the investment in new plant and equipment has been south of the border. The question I pose to those who dispute those figures is: How has the United States been hurt in this process?

Twenty-three years after the implementation of the Auto Pact, we have still got 90 percent of the business and 90 percent of the jobs. The United States has been treated very, very well under this agreement; and the free trade agreement, if it is implemented, will continue that and further solidify our position in the auto market.

The CHAIRMAN. Mr. Beckman, tell me about it.

Mr. BECKMAN. I think the United States share of employment has decreased somewhat in the last several years as the trade has shifted against the United States. And the fear is both with what has already happened, and there has been marginal change—significant marginal change—but the future is where we are most concerned.

The industry in the United States is changing. The behavior of the companies that Mr. Hanna represents has changed substantially in the last few years as they have increased their imports of components. We expect that process to continue and possibly to accelerate.

The agreement does not do anything to strengthen domestic—not only United States production, but North American—production relative to the interests of the companies, the United States-based companies and the foreign-based companies, to assemble large volumes of foreign parts into the vehicles that they assemble in North America.

91-402 0 - 89 - 2

The CHAIRMAN. Thank you, Mr. Beckman. Now, you can see with two articulate witnesses representing diametrically opposing points of view why it is so easy for the members to make up their minds. (Laughter)

Thank you. You have been very helpful with the testimony of this panel. We appreciate it. We have another panel we will call at this time.

Our next witnesses will be Mr. Robert J. Muth, President of the Non-Ferrous Metals Producers Committee, New York, New York; and Mr. Jeffrey Zelms, President of the Doe Run Company from St. Louis, Missouri. Gentlemen, if you would come forward?

I will tell you something; you two fellows multiplied. Let me understand who all these other folks are. I have Mr. Zelms and Mr. Muth. Would the others please identify themselves for the record?

Mr. MUTH. I will be happy to do that, Mr. Chairman. We are accompanied by counsel and by our economic consultant and by our Washington counsel for the Doe Run Corporation. Just Mr. Zelms and I will be addressing the committee.

The CHAIRMAN. I really hadn't in mind having you to swear to anything this morning. (Laughter)

Mr. MUTH. Well, we need all the help we can get.

The CHAIRMAN. All right. Mr. Muth, why don't you proceed?

Mr. MUTH. Thank you, Mr. Chairman. If I may, I would like to suggest that Mr. Zelms precede me. We have worked out our testimony so as to avoid duplication. I think if we proceed in this way, it will facilitate things.

The CHAIRMAN. All right. Go ahead.

STATEMENT OF JEFFREY L. ZELMS, PRESIDENT, THE DOE RUN COMPANY, ST. LOUIS, MO

Mr. ZELMS. Mr. Chairman, I will be abbreviating my remarks in my oral statement, but I request that my written testimony be made part of the record. I am Jeffrey L. Zelms, President of the Doe Run Company, which is headquartered in St. Louis, Missouri.

The Doe Run Company is North America's largest integrated producer of primary lead, with operations for the mining, milling, and smelting of lead, all of which are located in Missouri.

Let me make clear at the outset that I support well-reasoned efforts to increase free trade through the elimination of barriers to the free flow of trade and investment and the leveling of the playing field in the international marketplace in which we compete on a daily basis.

I cannot, however, support any trade agreement that takes the view that my industry and its employees are not of a large enough consequence to be fairly accommodated in the agreement. In my opinion, the proposed United States-Canada Free Trade Agreement fails to take into account our concerns over the Canadian, federal, and provincial subsidies of nonferrous metal mining and smelter production.

These subsidies are clearly intended to increase and ease further the more substantial penetration of the United States market. To add insult to injury, the agreement gives away the very modest tariff protection available to United States lead producers that

would serve to provide a partial offset against the subsidized Canadian production.

Moreover, I am concerned that the creation of the proposed bilateral disputes resolution panel to resolve complaints against unfair trade practices will result in the loss of any meaningful remedies under United States law.

Down the road, when the full impact of the current Canadian subsidies is felt in the United States market, I fear that we will find the Canadian members of the panel having a very difficult time adjuditing a trade action brought against their countrymen whose industry has received a substantial financial backing of its government for that very purpose.

In short, our industry was one of those give-aways by the United States negotiators, a result with which we cannot agree. Consequently, from our perspective, there is nothing free in the agreement because we believe there is great potential cost to us.

Let me address the potential cost to the Doe Run Company in the following way. Missouri is ranked number one in United States lead production, number two in United States zinc production, and number five in United States copper production. Missouri accounts for over 90 percent of the domestic primary lead production, with Doe Run producing approximately 225,000 tons of the total United States primary production and of which about 76 percent is utilized in automobile batteries.

The Doe Run Company employs more than 1,000 people in Missouri with 1987 payrolls of $40,406,000. Missouri realized an additional $60 million from purchased goods and services and taxes paid.

In sum, we inject more than $100 million annually directly into the economy of Missouri where we, through our predecessor companies, have operated for more than a century. We have worked hard to achieve these results.

We have emerged in the last year from the longest and deepest recession in its history. From 1982 to 1985, during which time prices for lead—18 to 20 cents a pound—were a fraction of what they were during the Great Depression on a constant dollar basis.

We have had to reduce our costs of production and increase the productivity of our employees at the unfortunate cost of jobs to many, in order to stay in business and to keep the bulk of our work force employed.

Because of what we have been through and have accomplished, I take issue with this trade agreement. It ignores all that the United States lead industry has done to remain competitive in the world market by failing to address aggressively and resolutely these subsidies and thereby tacitly affirms them.

Please be mindful that these beneficiary Canadian producers are world class companies, not small businesses. As an example of these subsidies, it has been reported the Canadian provincial governments are granting the Trail, British Columbia Smelter a combined $134 million for modernization.

These subsidies are to be made in the form of governmental purchase of preferred shares and will only be repaid based upon smelter profitability under a rate of return index. Any amount not repaid over a 20-year period is forgiven.

A substantial portion of that amount will be used to install a lead smelting process known as QSL. If traditional finance methods are used, the QSL system offers a cost of operation of 108 percent of our conventional operation. If they are allowed to ignore the traditional costs of money in fashion of a grant, their operating costs become 50 percent of our operating costs.

Subsidies such as this example will enable these world-class metal producers to eventually drive the price down below true costs levels and allow them to increase their share of the United States market. It should be noted that the United States import——

The CHAIRMAN. If you could please summarize, Mr. Zelms?

Mr. ZELMS. I will summarize; yes, sir. It should be noted that United States import of Canadian lead has increased from 80,000 tons in 1983 to 116,000 in 1986, 45 percent.

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Zelms appears in the appendix.]

The CHAIRMAN. Our next witness will be Mr. Muth, who is the President of the Non-Ferrous Metals Producers Committee. Mr. Muth?

STATEMENT OF ROBERT J. MUTH, PRESIDENT, NON-FERROUS METALS PRODUCERS COMMITTEE, NEW YORK, N.Y.

Mr. MUTH. Thank you, Mr. Chairman. We appreciate being here, and I especially appreciate the willingness of the committee to accommodate us with respect to the time of our appearance.

My name is Bob Muth. I am Vice President of ASARCO, Incorporated, and President of the Non-Ferrous Metals Producers Committee, which is a trade association of United States producers of primary copper, lead, and zinc.

I have submitted a written statement for the record, which I will now just briefly summarize.

The CHAIRMAN. Your statement will be in the record in its entirety.

Mr. MUTH. Mr. Chairman, the Canadian agreement in its current form is seriously deficient because it fails to address the problem of Canadian government subsidy practices. It weakens United States trade laws by eliminating judicial review regarding important unfair trade practices; and as Mr. Zelms pointed out, in our case it nevertheless eliminates the modest United States tariffs on nonferrous metals from Canada.

We believe, however, that, through inclusion in the agreement's implementing legislation of certain provisions, it is possible to limit the damaging effects of the agreement. One such provision would use Section 301 of the United States trade laws to provide an incentive for serious negotiations on the subsidy practices.

Our industry, sir, is strong and competitive with average costs that are fully competitive with average costs of production worldwide; and certainly, particularly in the case of lead and copper, we are fully or more than fully competitive with Canadian producers.

This competitive position is the result of major sacrifices by United States workers and management and successful efforts in

recent years to cut costs, improve productivity, restructure, and rationalize our business.

We are not asking for protection. We believe in free trade. As an industry, we receive precious little in the way of protection and less in the way of support from our Government; and we would be vastly better off in a world in which that were universally the case.

But it is not the case, and especially it is not the case in Canada. In Canada, what we find are major federal and provincial government subsidies for our competitors; yet the agreement is entirely silent concerning these practices.

There is no provision in the agreement for their elimination or reduction. Early in the negotiations, we had been assured by the Administration that it viewed the Canadian subsidies as incompatible with a free trade area agreement affecting our industry; and we were dismayed that, at the last minute, other considerations dictated the outcome.

We believe there is no dispute about the existence of the Canadian government practices or about their scale, and we believe we can document them with reasonable precision. The subsidies have the effect of permitting the Canadian nonferrous metals producers to achieve competitive objectives which they simply could not achieve in the absence of that assistance.

Mr. Zelms has spoken at some length about one particularly egregious example involving the Cominco lead smelter, but that is only an example, sir. We have tabulated well over half a billion dollars—Canadian dollars—in specific grants and assistance packages for specific major Canadian mining and smelting operations.

An additional reason that we have placed importance on the agreement in connection with subsidies is that the United States countervailing duty laws are at best a partial solution to the problem. First of all, as is the case with many capital intensive industries, there are timing questions and capital grants, such as we are now facing, will have their impact over time, down the road.

Second, we are dealing with an international commodity where overproduction can be debilitating to competitors in times of weak demand, and that is irrespective of particular import/export transactions.

These subsidized plants will continue to operate, hell or high water, in the bad times of the cycle. That is almost certainly part of the *quid pro quo* for the subsidies; and it is then that we will suffer, and we will suffer from world oversupply, world depressed prices, independent of particular import/export transactions which our CVD laws focus upon.

Finally, sir, we compete with these subsidized Canadian companies for access to raw materials. In the case of copper and lead particularly, Canada is not the great storehouse of mineral wealth. They are out in the world competing for raw materials, just as we do; and it is in that competition for raw materials that our smelters and our refineries will feel the pinch.

I see my time is up, Mr. Chairman. There are a number of other items we would be happy to address.

The CHAIRMAN. It will all be in the record.

Mr. MUTH. It is all in the record.

[The prepared statement of Mr. Muth appears in the appendix.]

The CHAIRMAN. This has been very helpful. Now, Mr. Zelms talked at some length about what they were doing for Missouri. You didn't say anything about what you are doing for Texas, and I happen to know that you are a very valued employer down there. There are a lot of employees, and I have been through your plant; and I have been impressed with it, and I sure want it to continue to grow and to keep those jobs there.

Mr. Zelms, Senator Danforth wants to ask some questions of you for the record and will do that.

Mr. Muth, you suggested in your testimony an approach for assuring in implementing legislation, that serious negotiations be conducted on the subsidies affecting your industry. Do you have some recommendations for the approaches that Congress ought to be taking in requiring improvements be built into that dispute settlement mechanism?

And if you do, do you have them in writing where we could put them in the record?

Mr. MUTH. Yes, sir. We have addressed considerable attention to that issue, and we do have some written recommendations and would be very happy to submit them for the record.

The CHAIRMAN. We would like to have those. So, if you will submit them, that will be helpful.

[The information appears in the appendix.]

The CHAIRMAN. Now, let me ask you this. Can any of these recommendations be taken unilaterally or do they have to be negotiated in an understanding with Canada?

Mr. MUTH. That is a difficult question, Mr. Chairman. To be fully effective, I am afraid they would require some further discussions with Canada. Now, let me give an example if I might.

We think that it is very serious business about how the members of the binational panels are chosen and how the roster is assembled. Now, under the agreement, each nation proposes a roster, but the agreement is silent, by and large, on how each nation goes about selecting that roster.

We would propose that on the United States side, for example, that the chief judge of the Federal circuit be the appointing authority or, if the Administration remains the appointing authority, then that the Congress be consulted.

That would help to keep things more or less straight on our side of the border; but to be fully effective, we ought to have comparable mechanisms up north to see to it that we get fair and objective people on the panel.

The CHAIRMAN. Thank you. Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman. Mr. Muth, I will begin with the same statement as the chairman; namely, I know you have operations in my State of Montana, too, and we want to thank you very much for those operations.

I likewise have been through a plant and was impressed with it. Could you please, for the record—because we don't have time here—document and provide a list of all those various Canadian subsidies that affect your industry?

Mr. MUTH. Yes, sir. We will certainly do that.

[The information appears in the appendix.]

Senator BAUCUS. I heard you say that your compilation now is about $500 million worth. Is that right?

Mr. MUTH. Yes, sir. We have got a fairly good list here, and we have documented it as best we can; and we will be happy to submit that information for the record.

Senator BAUCUS. Now, that $500 million applies to what? Is that nonferrous metal smelters?

Mr. MUTH. Smelters. By and large, smelters, but to a lesser extent—

Senator BAUCUS. So, it is only nonferrous metal smelters?

Mr. MUTH. That is right.

Senator BAUCUS. Just that one industry?

Mr. MUTH. That is right.

Senator BAUCUS. That $500 million does not include other forms of Canadian subsidies that affect other Canadian industries?

Mr. MUTH. Mr. Baucus, there are all sorts of programs in the Canadian economy that tend to benefit the mining industry. We haven't even begun to list those. We are just talking about the flagrant stuff. We are talking about the ad hoc deals that go directly to named companies for named projects.

I have to say to you, sir, that these are not in every respect public. The fact of these deals is widely known and publicized and, indeed, the Canadian government seems to derive considerable political mileage out of publicizing them.

But when you get down to the details, you only get what they would like you to have; some of the details remain yet elusive.

Senator BAUCUS. In your judgment, is there also—for want of a better expression—some regulatory flexibility in Canada compared to the United States? That is, in the Canada the government will tend to be more flexible in order to achieve an economic purpose. In our country an agency looks at all firms and all industries regardless of whether it is making a profit or not or regardless of whether it wants to assist that industry from an economic point of view?

In your judgment, does Canada tend to have more of a flexible regulatory system geared toward helping some industries, compared to the United States?

Mr. MUTH. It is very definitely my impression, sir, that that is the case. I think across the board what you will find is that Canadian industry and government work much more closely toward common objectives and that regulatory restrictions are in many cases the subject of individual negotiations.

Senator BAUCUS. If that is the case, how effective is our standard countervailing duty law in trying to address and remedy some of these concessions that Canada might give to an industry?

Mr. MUTH. The countervail law is a rough tool at best, Mr. Baucus; and it was for that reason that we had hoped that, in this agreement, we would come out with some sort of effective discipline over subsidies.

Again, it is for this reason that we would urge that, in the implementing legislation, a very well defined procedure be laid out that would allow the United States industry access to real relief from at least those subsidies that we are able to clearly identify.

Senator BAUCUS. So, in your judgment, the current countervailing duty law is insufficient to address the problem?

Mr. MUTH. It is indeed not a sufficient tool, particularly where we are dealing with international commodities, where competition for raw materials plays a role, and where world supply and demand balance can be quite destructive—or imbalance can be quite destructive—without regard to particular import/export transactions.

Senator BAUCUS. And it is also your view that, were it not for these additional subsidies or additional assistance, that the Canadian federal government and/or provincial governments give to its nonferrous metal smelter industries, that you could be competitive with the Canadian firms? Is that not correct?

Mr. MUTH. Mr. Baucus, even with a 75 cent Canadian dollar, we can be competitive. With parity in currency rates, I think we would be way ahead; but we can't compete with governments in Canada any more than we can compete with governments in Chile or elsewhere in the world.

Senator BAUCUS. Could you provide some of that documentation also for the record, to lay that case out a little more fully?

Mr. MUTH. I understand, and we certainly will do so, sir. Thank you.

[The information appears in the appendix.]

Senator BAUCUS. Thank you very much.

The CHAIRMAN. Mr. Muth and Mr. Zelms, that is very helpful to us; and there is no question from what you have told me, when you talk about the Canadian government buying that preferred stock and then having a return on investment percentage to figure it out—and if they have a loss in it, they eat it—they buy it; they cancel it, that is a blatant subsidy, the way it looks to me.

That is helpful to us to better understand the position that you have been put in. We appreciate very much your testimony. We have been delighted to have you.

Mr. MUTH. Thank you, Mr. Chairman.

The CHAIRMAN. This hearing is adjourned.

[Whereupon, at 11:55 a.m., the hearing was adjourned.]

UNITED STATES-CANADA FREE TRADE AGREEMENT—1988

THURSDAY, APRIL 21, 1988

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:12 a.m. in Room SD-215, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman) presiding.

Present: Senators Bentsen, Baucus, Bradley, Mitchell, Daschle, Packwood, Danforth, Chafee, and Durenberger.

OPENING STATEMENT OF HON. LLOYD BENTSEN, A U.S. SENATOR FROM TEXAS, CHAIRMAN, SENATE FINANCE COMMITTEE

The CHAIRMAN. This hearing will come to order. Those who are standing, please take seats and cease conversation.

This I would expect to be the last of our hearings on the Canadian Free Trade Agreement. We have had substantial oral testimony, and it has been buttressed by written testimony and the answers that the administration submitted to us on Monday of this week to a number of written questions by the members of this committee.

That is going to formulate the basis for the recommendations that we will be making to the Administration on whether and how to implement the United States-Canadian Free Trade Agreement.

This record is voluminous, and it is complex; but it is not an easy issue. The issue itself is a most complex one. Among other problems, we have a very tight schedule.

We are trying to complete our recommendations before the June 1 deadline that we set with the Administration.

Now, today's hearings are going to focus on the overall impact of that agreement on labor and management in this country. I would like to defer now to my colleague, Senator Baucus, for any statement he might want to make.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator BAUCUS. Thank you, Mr. Chairman. As you stated, we have held several hearings on this agreement. In fact, we have held five. In my judgment, however, there is a very serious shortcoming in the agreement that we have to address, and that is that the agreement fails to address subsidies in any meaningful way.

Subsidies are just as much of a trade barrier as tariffs or quotas. Like any other trade barrier, subsidies protect inefficient industries

at the cost of taxpayers, consumers, and competing industries of other nations. Subsidies are protectionism, pure and simple.

The administration told us, during the Finance Committee consideration of the request for fast track authority, that attaining limits on subsidies was a primary objective of the United States in the negotiations. Unfortunately, the Administration has come back empty-handed.

The agreement contains no meaningful limits on subsidies. This is an extremely significant shortcoming, given the important role that subsidies play in the Canadian economy. In fact, the leading Canadian negotiator, Simon Reeseman, pointed out, and I quote:

> You must understand that the people of Canada are committed to helping their industries that cannot compete. Our constitution requires that funds be transferred to assist companies in noneconomic locations to compete in international trade.

I repeat, Simon Reeseman, referring to the Canadian constitution:

> Our constitution requires that funds be transferred to assist companies in noneconomic locations to compete in international trade.

Given these Canadian sentiments, it is no surprise that an OECD study concluded that overall subsidy levels in Canada are approximately five times higher than United States subsidy levels. Even Ambassador Yeutter has conceded, and I quote:

> We believe that in most cases Canada uses domestic subsidies more extensively than does the United States.

If we remove all the trade barriers except subsidies, we are putting United States businesses at a very significant competitive disadvantage. We are leaving them vulnerable to Canadian protectionism in the form of subsidies.

What is worse, under the agreement, we have restricted our ability to counter these subsidies under United States countervailing duty law, our principal tool for countering foreign subsidies. We have replaced the process of judicial review of CVD decisions with review by a binational panel, a panel which many industries feel could be very vulnerable to political pressure.

We have also restricted the ability of the United States to change its CVD law to counter Canadian subsidies. And even if we are able to use our CVD law without any restriction, it still would not be a perfect remedy to the subsidy problem.

United States industries could not use the CVD approach until after they had already been seriously injured by subsidized competition, and many subsidies could not be reached under current CVD law.

There are some attractive features to this agreement, namely the reduction of tariffs. But if I am to ultimately support the Canadian agreement, the Administration must agree to meaningfully address the subsidy issue in implementing language.

That language must contain two points: number one, establish meaningful time limits and negotiating objectives to the ongoing discussions on the reduction of subsidies; and number two, provide assurances that the Administration will aggressively use tools, such as Section 301 and CVD law, to counter Canadian subsidies.

These two steps are the bare minimum that the Administration must take to address subsidies. Without them, the Canadian agree-

ment should not be approved by the Congress. It would be very unwise for the United States to remove its major trade barriers while leaving United States businesses vulnerable to Canadian protectionism in the form of subsidies. Thank you.

The CHAIRMAN. Thank you very much, Senator Baucus. Senator Mitchell, do you have any comments?

OPENING STATEMENT OF HON. GEORGE J. MITCHELL, A U.S. SENATOR FROM MAINE

Senator MITCHELL. Mr. Chairman, just briefly. I commend Senator Baucus for the clarity and force of his statement.

The worst case scenario for an American producer is to be involved in the production of a commodity which is not supported in the United States but is subsidized in Canada, and the best example of that is potatoes. y

Since this agreement was first considered, I have discussed the problem with the members of this committee, the problem faced, Mr. Chairman, by an American commodity which is not supported, competing with a Canadian product which is heavily subsidized. As I have said many times, the potato industry faces that problem.

I am particularly pleased that my colleague, Senator Cohen, is here today to buttress the statements I have made. He is an acknowledged expert in the field. He has represented that area of our State for 15 years as a Senator and before that as a Member of Congress; and I hope the committee will pay particular attention to his testimony in this regard because he is widely recognized as, I think, the best-informed Member of Congress on this subject.

And I think Senator Cohen can provide a great deal of insight and assistance to the committee in attempting to deal with this serious problem. I commend Senator Baucus for his statement.

The CHAIRMAN. Thank you, Senator Mitchell. Senator Daschle, do you have any comments?

OPENING STATEMENT OF HON. TOM DASCHLE, A U.S. SENATOR FROM SOUTH DAKOTA

Senator DASCHLE. Thank you, Mr. Chairman. I will be brief as well. I would like to associate myself with the remarks of Senator Baucus in particular. I would adhere to the two points that he set out.

There has been a dispute in the upper Midwest, and I know the Senator from Minnesota is very concerned about this, with regard to figures that may indicate there may be a diversion of grain from the West to the East to take advantage of the loophole that already exists with regard to Thunder Bay importation of Canadian wheat.

The figures before me make that diversion question even more significant. We had 764 million bushels of wheat produced in the 1986/1987 season in Canada; 435 million bushels, or 57 percent, went through Thunder Bay.

Just to remind my colleagues, that amount of grain will all be exempt from the subsidy limitation that has been written into this agreement. It is a loophole the size of seventeen Mack trucks. We are going to have to address it.

Senator Baucus' concern addresses it in part. We may have to address it specifically, at least in some understanding, before I can support this agreement as well. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Daschle. Senator Durenberger, do you have any comments?

OPENING STATEMENT OF HON. DAVID DURENBERGER, A U.S. SENATOR FROM MINNESOTA

Senator DURENBERGER. Mr. Chairman, I would like just to briefly indicate that the concerns expressed on your side of the aisle have been expressed before in many settings, and I think they are shared by many of us over here.

I think this hearing will help us to some degree to clarify them; but I have looked over, for example, my responses from the Administration to all of my questions. They didn't pay much attention to some of the deep concerns expressed here.

So, while I think we would all like to see this agreement pass, we are still a ways from home plate, as I see it.

The CHAIRMAN. Thank you, Senator. Senator Cohen, we are very pleased to have you. We will have to ask you to accept the limitation on time because we have a number of votes coming; and as you have noted, we have had a limitation on time on the members of the committee.

Senator Cohen. What is that time, Mr. Chairman?

The CHAIRMAN. Ten minutes.

Senator Cohen. Ten minutes? I will be even briefer than that.

STATEMENT OF HON. WILLIAM S. COHEN, A U.S. SENATOR FROM MAINE

Senator COHEN. I appreciate your comment about this being the last set of hearings. It is my fervent hope that the last shall be first in this particular case, as far as our concerns are expressed.

I want to commend Senator Baucus for his statement. It perhaps makes mine redundant in terms of what I have to say concerning the subject of subsidies, and also point out that his reference to Ambassador Yeutter, saying that Canada uses subsidies more extensively than the United States, is an exquisite use of the English language.

The fact is that Canada uses subsidies more absolutely than the United States as far as it pertains to round white potatoes in our own State—Senator Mitchell and myself—the State of Maine.

But I appreciate having the chance to talk to you, Mr. Chairman, to bring to you our concerns about the nature of this particular agreement. Since I came to Congress back in 1972, I have watched Maine's natural resource industries sustain life-threatening economic damage as a result—a direct result, I might add—of unfairly subsidized Canadian imports.

In each instance, the response of the United States trade officials has been one of callous indifference to the facts at hand; and in very few instances, have our trade laws provided any measurable relief to those beleaguered industries.

In the area of the round white potato trade, the Canadian government has embarked on a long-term program to expand exports

to the eastern United States at whatever cost necessary to capture the market. During the antidumping proceedings filed by the Maine Potato Council back in 1982, the United States Department of Commerce found dumping margins in excess of 36 percent by the Canadian producers.

That is in addition to the monetary exchange rate of about 35 or 40 percent—36 percent margin of dumping by Canadian producers; and yet the International Trade Commission could find no correlation between its astonishing level of dumping and injury to the Maine potato industry.

I think that Senator Mitchell will appreciate that this is almost appropriate to invoke the doctrine of "recips eloquitor" or, as Thoreau might say, "When you find a trout in your milk, it sort of speaks for itself." Thirty-six percent margin; no injury was found.

The CHAIRMAN. You found a what?

Senator COHEN. A trout in your milk. (Laughter)

That is the most extreme example, Mr. Chairman——

The CHAIRMAN. That has to be Maine. (Laughter)

Senator COHEN. Thoreau; that is right. New England.

Senator MITCHELL. A great saying, Mr. Chairman.

The CHAIRMAN. Down in my part of the country, it is a mud fish.

Senator COHEN. It is catfish. If you find a catfish in your milk, you can be pretty sure that someone has placed it there; and we can be pretty sure when there is a 36 percent dumping margin—there has been injury done to the industry.

Yet the ITC said they could find no evidence whatsoever of any kind of proximate cause of injury to the potato industry. Now, the Canadian response to the ITC decision was, I think, predictable because imports of the Canadian round white potatoes have increased dramatically, with resulting price depression; and depression is the appropriate word in this instance.

It threatens the very existence of the Maine potato industry. To further tip the scales, the government of Prince Edward Island has recently bought a controlling interest in the largest potato distributor in Canada.

So, now Maine potato growers face not only the competing interests of subsidized Canadian producers but also with a government-owned sales and brokerage agency. And I think we have to ask: Where is it going to stop? Where is it going to stop?

To add one last comment on the potato trade, the Canadian government announced earlier this year it was paying some $17.5 million to growers to compensate them for losses incurred during the 1985/1986 growing season. Growers in Maine, I think, remember that year well. On an average, they received roughly 75 cents for a 165-pound barrel of potatoes that it cost them between $9.00 and $10.00 to produce. Unlike other United States agriculture producers, there are no price supports or diversion programs propping up the Maine potato industry. Maine growers are entirely on their own, and that is apparently the way this Administration wants to see it.

Now, in the area of fisheries trade, recent events have indicated that our Government's message to Canada should not be: Let us look forward to a relationship of unrestricted imports on the basis of free trade. Instead, our Government must make clear to the Ca-

nadians that, until there is some adjustment of Canadian production policies to encourage fair competition in the domestic marketplace, continuing opposition from United States fisherman to the existing unfair trade practices can be expected.

Now, the Maine sardine industry may well become the first casualty of the proposed free trade agreement if it is ratified. Not only did this industry give up all tariff protection, but it faces subsidized Canadian competition that can hide behind a little known provision in the FTA, Article 1203, subsection (c).

This section allows New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island, and Quebec to ban the export of unprocessed fish under provincial laws, which are grandfathered into this agreement.

The implications of Article 1203, I think, are astounding. At certain times of the year, the Maine sardine industry depends upon Canadian fisherman to supply it with raw product. Fish are a migratory resource, and sometimes they are simply not found in United States waters.

If this agreement is ratified, Maine sardine processors are at the mercy of their competitors' governments to secure a supply of raw product. Predatory pricing, and government subsidization pale in comparison to the potential damage a government-imposed export ban could cause this industry.

I am surprised and frankly disappointed that our negotiators allowed this language to remain.

At this point, Mr. Chairman, you might place me in the opposition column. Frankly, I have not made any final decision with respect to this agreement; but I have pointed out what I believe to be the most glaring deficiencies in the agreement.

I think there are, as Senator Baucus indicated, some positive gains that have been made in energy security, market access, investment, and services; but my concern really revolves around the absence of this Administration's willingness and commitment to resolve the issue of subsidies.

Until our Administration gives some tangible evidence of a commitment to do that, I frankly cannot find myself in a position of agreeing to ratify this agreement. Thank you very much.

[The prepared statement of Senator Cohen appears in the appendix.]

The CHAIRMAN. Senator Cohen, that is very helpful. It is a good statement, and it is buttressed by what Senator Baucus and Senator Mitchell have stated. There is no question but that the subsidy problem has not been seriously addressed; that is disturbing.

Are there further comments?

Senator MITCHELL. Mr. Chairman, I would like to commend Senator Cohen for his statement and to recall to his mind the situation which existed in 1985 when prices were depressed—as he suggested.

As you will recall, Senator Cohen, prices were depressed in that Canada that year also, weren't they?

Senator COHEN. They were.

Senator MITCHELL. And what, if you can recall, was the response of the Canadian government to the depression of prices in the market?

Senator COHEN. Senator Mitchell, let me respond to what was the response of our Government. You and I went to visit the Secretary of Agriculture, and we said that we had a real depression on our hands. It costs $9 to $10 to produce a barrel of potatoes; the farmers are getting 75 cents. They cannot stay in business.

We had seen a drop, for example, from 900 farmers down to about 630 in a 3-year period.

Senator Mitchell and I went to the Secretary of Agriculture, asking for some modest diversion program. The Secretary said that he was afraid that such a diversion program might offend the Canadian government. Within a week after our visit with the Secretary of Agriculture, the Canadian government announced not one but two diversion programs to help soften the blow to Canadian producers.

That is the kind of outrage, I think, that we have continued to witness time after time and why I feel so strongly about the absence, and indeed the indifference on the part of the Administration, dealing with this issue.

Senator MITCHELL. Mr. Chairman, if I might just point out the complete picture? The Canadian diversion program was far larger in dollar amount than the modest amount we requested for American producers.

Second, the Canadian diversion programs were in addition to 32 subsidies to their producers, as identified by our Department of Agriculture, which is not aggressive in seeking out subsidies in other governments. So, you can be sure that that is the minimum amount.

So, you have this incredible situation where our commodity is entirely unsupported and receives nothing but a blank wall from the Administration. Theirs is heavily subsidized; and when they incur any losses, the government makes it up to the growers in the succeeding year in the form of diversion payments.

And all of this is intended to create a product for export. They are very open about it; their objective is to capture the eastern United States market, and they have done so. And the result is economic suicide for American producers.

A few decades ago, there were 4,500 farms in Maine producing potatoes. There are now about 600. There has just been a steep decline, and the most significant factor has been the aggressive export policies of Canadian producers heavily supported by their government.

And now, the only remaining barrier is the tariff; and this agreement eliminates the tariff and in a circumstance—as Senator Cohen has said—that permits the Canadian provinces to prohibit the import of American potatoes into their area. They retain the right under this agreement to prohibit American potatoes from being shipped into Canada, even as they mount this aggressive exporting campaign.

It is the most unfair circumstance imaginable. I very much thank Senator Cohen for making the point, I think, very emphatically.

The CHAIRMAN. Thank you very much, Senator Cohen. We are pleased to have you. That has also demonstrated some of the very serious concerns about this agreement.

Senator COHEN. I will remember to revise Thoreau when I quote him to the chairman again. (Laughter)

The CHAIRMAN. Would the next two witnesses come forward for a panel. We have Mr. Rudy Oswald, Chief Economist, American Federation of Labor and Congress of Industrial Organizations, AFL-CIO, Washington, DC; and Mr. Alexander B. Trowbridge, President of the National Association of Manufacturers, Washington, DC, on behalf of the American Coalition for Trade Expansion with Canada.

Gentlemen, if you would limit your comments to 10 minutes each, then that will give time for the committee to ask some questions. Mr. Oswald, if you would proceed, please?

STATEMENT OF RUDY OSWALD, CHIEF ECONOMIST, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL-CIO), WASHINGTON, DC

Mr. OSWALD. Thank you, Mr. Chairman. The AFL-CIO welcomes this opportunity to present its views on the proposed United States-Canada Free Trade Agreement. The Federation believes that this agreement, signed in January, will do little to solve the serious trade problem that exists between United States and Canada and may, in fact, make them worse.

The AFL-CIO joins the Canadian labor movement in opposing this agreement because we share the view that governments must play a positive role in managing relations between countries and that increased reliance on so-called market forces will not necessarily promote economic growth and equity.

Generally speaking, there is little in the agreement that will benefit American workers. It does not address the huge imbalance in trade and goods between the United States and Canada, nor the large exchange rate differential which has contributed importantly to those imbalances.

Its silence on the issue of exchange rates is particularly significant and raises real questions concerning the validity of the entire exercise. How can American industry and agriculture hope to compete on a fair and equitable basis when current exchange rates have the effect of conferring a 28 percent cost advantage on Canadian producers?

The exchange rate advantage to the Canadians operates much like a tariff on the Canadian side of the ledger, raising the price of United States goods by 28 percent. But the exchange rate differential is worse than a tariff on the export of Canadian goods to the United States.

It cheapens their goods by 28 percent in the United States market, giving them a substantial advantage of United States goods. The tragic experience of the United States over the last 8 years has amply demonstrated the importance of exchange rates in international trade. and the failure to address this factor is alone sufficient ground for Senate disapproval.

The agreement itself, while moving in the direction of market determined trade, does not by any measure establish free trade. Significant inequities in trade practice will remain even after the ten-year transition period.

What has been negotiated is not a free trade agreement but a new bilateral trade arrangement, and that arrangement should be judged on the basis of fairness, equity, and national interest. Regrettably, the agreement falls far short in meeting those goals.

A whole set of Canadian practices that discriminate against United States production have been grandfathered. By prohibiting the introduction of new measures to regulate or manage trade, Canadian advantage has been solidified.

It appears that the trade-off for the continuation of discriminatory Canadian practices is greater access for United States investment and services. Even here, however, reciprocal treatment has not been achieved, and the United States has forfeited the right to employ measures that may prove to be necessary in the future.

The AFL-CIO has long been concerned over the priority given negotiations on investment and trade in services. The principal trade problem facing the United States is undeniably the massive trade deficits occurring in the manufacturing sector and the resultant loss of employment.

Emphasis on liberalizing trade in services and investment flows will have little impact on this central issue and may, in fact, contribute to the deterioration of the domestic manufacturing sector if discriminatory practices of other countries in the goods area are left intact as the price for reductions in barriers to services and investment.

What has happened in the telecommunications sector is an example of this. While the United States has gained greater access for telecommunications services, Canadian procurement policies in the telecommunications sector have not been changed.

Further, what may appear as barriers to service trade on international investment are, in fact, in many cases proper and essential social and economic policies for both the United States and other countries as well.

While unrestricted flows of services and investment may be important to certain corporate interests, this does not make them significant for the country as a whole.

The AFL-CIO is also concerned that this proposed agreement will be used as a blueprint for the current GATT round of negotiations, and we are further concerned that President Reagan and Vice President Bush have indicated that they look towards this as a model for Mexico; and there, the exchange rate problem is much more severe than it is with Canada, as you know very well, Mr. Chairman.

The Executive Council, in its February 1988 statement, pointed out a number of specific problems, and I would like to highlight some of those.

One has been the separate procedures established for Canada regarding trade remedy laws that Mr. Baucus had indicated as part of the problem when dealing with subsidies, in his opening statement, and the rather weak ability to deal with the provinces in Canada, where most of the subsidies come from, rather than from the federal government itself.

And there is some question of what the interrelationship in Canada will be between the Federal Government and the Provinces.

In the Auto Pact area, little improvement was made in the negotiations, which means that Canadians continue to have an important advantage; and it will become a growing problem in the future as foreign non-North American producers set up operations in Canada to bring foreign-produced vehicles into the United States through new transplant arrangements.

The trucking industry also faces a serious problem, which was not addressed at all in the Canadian negotiations. Currently, Canada has restrictions on trans-border trucking that severely limit the ability of United States companies to compete in that country, while Canadian companies can operate throughout the United States, since 1980, as a result of general trucking deregulation.

Some of those same problems exist on the Mexican border, as you know very well, Mr. Chairman; and our concern is that, if the Canadian agreement is a model, we haven't addressed one very serious aspect of trade between our countries—the trucking industry—which remains almost shut on the Canadian side of the market, while the United States market side is totally open.

In the textile and apparel industries, there are major problems because we view the failure to establish new safeguards in this area as undercutting the Multi-fiber Agreement allowing large inflows through Canada.

Over the next 10 years, obviously Canada will have an advantage as they are not reducing their tariffs to United States levels but are reducing them over a ten-year period. Since they are starting with much higher tariff levels, over the next 10 years they will continue to have an advantage over United States manufacturing producers.

And also, in terms of our slight Customs user fee that was supposed to pay for part of our Customs services—the .17 percent—the negotiators on the United States side agreed to drop that.

Also, in terms of government procurement, Canadians are able to have a much better access to the United States than the United States there, just partially in terms of the size of the country and in terms of their general ability to access our markets.

In terms of immigration law, we believe that the agreement has gone too far in easing the ability of so-called business professional persons to temporarily enter the United States, as the agreement limits all prior approval procedures or petitions, labor certification tests.

Similarly, we heard earlier about the problems in the agricultural industry—wheat, potatoes, and other products. Similarly, there are concerns in uranium, coal, oil, and so forth.

In general, the AFL-CIO believes that this agreement is totally inadequate to the task of solving the trade problems that exist between the United States and Canada. The agreement does not promote United States employment and production, which would reduce the United States trade deficit with Canada.

At the very least, America should demand reciprocal treatment in trade. This agreement fails to do that and should, as a result, be rejected by Congress. Thank you, Mr. Chairman.

[The prepared statement of Mr. Oswald appears in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Oswald.

The CHAIRMAN. Mr. Trowbridge, representing the National Manufacturers Association, is supporting the agreement, as I understand it. So, we will hear a contrary point of view. Would you please proceed?

STATEMENT OF ALEXANDER B. TROWBRIDGE, PRESIDENT, NATIONAL ASSOCIATION OF MANUFACTURERS, WASHINGTON, DC, ON BEHALF OF THE AMERICAN COALITION FOR TRADE EXPANSION WITH CANADA

Mr. TROWBRIDGE. Thank you very much, Mr. Chairman. I am here, as you said, to represent the position of the National Association of Manufacturers and also on behalf of the American Coalition for Trade Expansion with Canada, which is a coalition of some 560 companies and associations, all of which support the implementation of the agreement with Canada.

NAM's position on the agreement from the outset has been clear. Our members believe that the free trade agreement with Canada is a good one; it will benefit American industry. And I am here to urge the Congress and the Administration to develop implementing legislation quickly and to move that legislation from Capitol Hill to the President's desk as soon as possible.

This isn't to say we are completely satisfied with the agreement. There are things we would like to have seen accomplished which were not. Disappointments, however, must be seen in context.

The United States and Canada are obviously both sovereign powers. Neither was in the position to ask the other to endorse its vision of a free trade agreement, and both came to the table with more hopes than any agreement could possibly have fulfilled.

What is impressive is that so much was achieved and that most of the quarrels various groups have with the agreement are disappointments rather than fundamental disagreements.

There are admittedly a number of people who feel that, in one area or another, their negotiators did not go far enough. Very few argue that they went too far.

It is doubtful in our opinion that any other single policy initiative has as much potential for advancing United States trading interests as the Canada/United States Free Trade Agreement.

The idea of free trade between our two countries is hardly new. In a sense, it is a permanent feature of the history of our two countries; and a fair reading of that history also suggests that major breakthroughs in United States/Canadian commercial relationships are rare and profoundly important opportunities.

The agreement under consideration is just such an opportunity and perhaps a more important opportunity for the United States than any previous agreement or possible agreement, because trade and trade competitiveness are more important to us today than they have been at any other time.

On the subject of tariffs, Canada protects her industries the old-fashioned way—with tariffs. It has frequently been noted that Canadian tariffs are roughly twice as high as our own; about nine percent for Canada as against four percent for the United States.

The nine percent tariff can be quite a hurdle and, in some cases, a prohibitive one. Even so, it is a percentage that greatly underva-

lues the power of Canadian tariffs and their ability to block exports from the United States. Brief consideration of how these numbers are arrived at shows why.

Business people deal, not with a general United States or Canadian tariff rate, but with a series of rates on individual products, on everything from shampoo to satellites. Average rates are the result of a fairly simple exercise in arithmetic.

Analysts simply divide tariff revenue collected by the value of the dutiable imports into the country one is focusing on, and products kept out by high tariffs do not enter into the equation at all. The often-quoted fact that 65 percent of United States exports to Canada enter duty-free only underscores this point.

If only 35 percent of United States exports to Canada are dutiable and if the average duty paid on those exports is nine percent, then it is likely that high Canadian tariffs are keeping a lot of United States products out of Canada.

In order to demonstrate that many of Canada's tariff rates are at or above the nine percent level, we conducted a very informal analysis. A member of our staff simply flipped through the pages of the appendix to the agreement that shows current Canadian tariff rates; and they range from 15.5 percent on ice cream, 10.7 percent on tires, surgical gloves at 25 percent, wooden furniture at 15 percent, and on it goes.

Many items are above that nine percent figure, and clearly those Canadian tariffs are a check on potential American exports. If the FTA is ratified here and in Canada, those tariffs will be gone within 10 years and many of them sooner.

On tariffs and investment, let me add that Canadian tariffs and related policies, such as Canada's creative use of duty drawback schemes, have affected the nature of production in the two countries, as well as the trade flows between them. Canada is not only our most important trading partner, she has also been the recipient of more United States investment than any other country.

The problem is that the facilities on both sides of the border are less efficient, less competitive than they could be precisely because their establishment and operations have been too strongly influenced by tariffs and other governmentally imposed market distortions.

The promised tariff reductions are scheduled to take place in three stages, as you well know, some going into effect on January 1, 1989, the date that the FTA is going to go into effect if implemented. Some will be eliminated over a 5-year period and some over a 10-year period.

In addition, however, the agreement specifically allows for a more rapid elimination of tariffs where the two countries can agree and this would be in the interests of both. We hope and have reason to believe that, in more than one area of interest to our members, tariffs may actually be reduced more quickly than is called for under the timetable of the agreement.

The mere fact that there is an investment provision to the FTA is in itself very significant. I can't be certain how the members of the NAM would have responded had we been forced to pass judgment on an agreement that did not have an investment chapter.

In the early days of the FTA talks, this was just the kind of agreement some had in mind, an agreement that did not deal with investment. And as much as we value the prospects of a tariff-free border between the United States and Canada, my guess is that we would have had great difficulty supporting an agreement that was silent on investment, not with over $50 billion of United States investment in Canada.

And in some important respects, trade and investment are interdependent economic phenomena. Certain objectives, such as open markets can't be achieved in the absence of appropriate policies and disciplines in both areas.

United States companies that operate in Canada would have found little merit in an agreement that took away the constraints of tariffs only to allow others to be added in the investment area later.

As a result of the FTA, Canadian investment policy is now formally tied to its trade policy, especially where the United States is concerned. Once the agreement is fully implemented, there will be no discrimination in Canada against United States firms operating there because of the national treatment provision.

In addition, there will be no review by Investment Canada of either indirect acquisitions or wholly new green field plants. The threshold for review of direct acquisitions will rise from the current $5 million Canadian to $150 million Canadian adjusted for changes in Canadian gross domestic product; and, further, though forced divestitures will still be allowed in the cultural area, the Canadian government has an obligation under the agreement to pay full market value for the assets so divested.

Are we satisfied with these changes? It depends. If the question relates to the system NAM members would like the Canadian government to adopt, the answer is no. If, however, the question is whether we see this as not only an improvement but the best improvement we are likely to get in the foreseeable future, the answer is yes.

The energy provisions of the agreement are about security, security of access to markets and security of access to supplies. Some of the members of the NAM are energy producers. All are energy users. Enhanced stability in the energy market is therefore, in itself, an important achievement of this agreement.

It is not unreasonable to expect that some segments of the United States manufacturing community will benefit by the development of projects made more likely by this agreement, such as oil and gas exploration off the coast of Newfoundland.

Exchange rates: As I have indicated above, most of the provisions of the agreement are positive to one extent or another. That is not to say, however, that there were not disappointments. Perhaps the most important was the failure of the negotiators to include a consultation provision on exchange rates.

The severe exchange rate misalignment of the last 15 years contributed more than anything else to the dramatic deterioration of the United States trade account in the 1980s.

We had also hoped that the agreement might contain a chapter on intellectual property rights. While we are disappointed that such a chapter was not included, there are offsetting consider-

ations. Two important Canadian disputes over intellectual property rights issues were resolved during the period in which the FTA was being negotiated, and both countries have agreed to work together toward a meaningful GATT agreement on the international treatment of intellectual property rights.

We are encouraged by these developments for, in fact, in this area a GATT agreement will be more important than a chapter in the FTA.

On subsidies, at the start of the negotiations, it had been our hope that the negotiators might have achieved new understandings on the use of subsidies and the effects on trade. In some limited respects, they did, particularly in the agricultural area.

In general, however, a breakthrough on subsidies was not possible in the time available. We are hopeful that the United States and Canadian negotiators will have more success in this area in the next 5 to 7 years in the course of the negotiations envisaged by the agreement.

Mr. Chairman, everyone concerned with this issue recognizes that the FTA is a major political issue in Canada and a complicated one. It is not for NAM to comment on Canadian domestic politics.

Our job is to ensure that you and the Congress know the views of American manufacturers on this agreement, that you know that we think it should be approved and genuinely accepted in both countries.

In our opinion, that is most likely to be the result in Canada if the Congress acts quickly and decisively to approve the agreement before the summer recess. Thanks very much.

[The prepared statement of Mr. Trowbridge appears in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Trowbridge.

Mr. Oswald, in looking at the question of tariffs and subsidies and the reduction of the tariffs over the 10 years and not seriously addressing the subsidy side of it, which do you think is the more important in the Canadian free trade agreement? Which has the most impact?

Mr. OSWALD. Mr. Chairman, our experience has been that on the subsidies side, there are more specific problems than in general on tariffs. That may not be true for one or two particular products, but as Mr. Trowbridge said, the exchange rate differential has so dwarfed the tariff situation that this differential, which is roughly 28 percent currently, is more than three times the average tariff of nine percent; and even their highest tariffs are often as high as 28 percent.

So, in essence, it is the exchange rate that dwarfs the tariff, and specific problems most frequently have been on the subsidy side.

The CHAIRMAN. I note that the Europeans are saying, in integrating that European Community market of some 320 million people, that its benefits in the reductions of tariffs will generally accrue to Europeans and not to outsiders. How does that compare with what you think would be the result of the United States-Canadian Free Trade Agreement?

Do you think it would principally benefit North America, or would it benefit the entire world? Or do you just think it wouldn't benefit period?

Mr. OSWALD. Mr. Chairman, I think that reductions in tariffs in general have been positive for the flow of goods. I think an integral part of the European movement, though, is also the integration of the value of the currency and an attempt to develop a common currency.

And to that extent, I think that the benefits of the European integration may come much more in 1992, because of the integration of the currency market rather than from the reduction in tariffs.

In general, on the European side, there is a view that there will be a wall around the European Community which will tend to keep out other products. I don't think anybody views that as having anything to do with the Canadian-United States situation.

And this relationship—if it is agreed to or disagreed to—will have little impact on the rest of the world.

The CHAIRMAN. But you think it is a different objective here that we are talking about, from what the Europeans are talking about?

Mr. OSWALD. Yes, sir.

The CHAIRMAN. We are not trying to close this market to the world to the extent that seems to be the objective of the Europeans.

Mr. OSWALD. That is correct, Mr. Chairman.

The CHAIRMAN. Mr. Trowbridge, if we put this agreement into effect, future Administrations are going to be able to say to this committee, as we prepare to legislate: You can't do that one because it violates the United States-Canadian Free Trade Agreement.

Now, in trying to deal with that dilemma, do you think we need to go to GATT and get an exception for the United States-Canadian Free Trade Agreement so we can say, as we legislate in the future, that we are legislating for other nations around the world, but not for Canada? How do we handle that?

Mr. TROWBRIDGE. Mr. Chairman, I am not a legal expert on the requirements of GATT. My understanding, however, is that we can proceed to enact enabling legislation on this agreement on both the Canadian and the United States sides and proceed to implement within the rules of GATT. GATT Article XXIV expressly acknowledges the desirability of enhancing trade through arrangements such as the proposed United States-Canada free-trade area, and it is our understanding that the FTA meets the requirements of this provision.

I don't know that there is a conflict there.

The CHAIRMAN. All right. I think we would have some problems, but let me ask you a pragmatic question. If we put this agreement into effect, do you see trade increasing—exports increasing—more from manufacturing in this country as compared to any increase that Canada might have?

Or do you think it is pretty well in balance?

Mr. TROWBRIDGE. I think that the very significant difference between Canadian duty levels—tariff levels—on imports from the United States versus ours on their exports to us is a major significant advantage of this agreement from which we can hope to gain really more than perhaps the Canadians.

The latest figures I have on bilateral trade in 1986, the total United States exports to Canada, were some $55 billion; and the total United States imports from Canada were $68 billion, a very significant surplus in their favor.

And when you look at the list, and I have included in the full testimony a more extensive list than the one I referred to in the shortened version, there are clearly a large number of product categories in which the level of duties is significant: 20, 25, 17 percent, 12.5 percent, 22.8 percent.

I think we have an opportunity here, stretched out admittedly over 10 years, to reduce a major barrier to American exports and to provide that much more opportunity for American trade to go north.

The CHAIRMAN. Even though that is a relatively smaller market by far than what we would provide here?

Mr. TROWBRIDGE. True, but given the fact that we are the largest trading partners of each other, the size of our bilateral trade is enormous. And given the fact that their tariff levels are nine percent average versus four percent average on our side, it seems to me we would gain more by reducing them all to zero.

The CHAIRMAN. Thank you. I see my time has expired. The list of arrivals in sequence is Senators Baucus, Mitchell, Daschle, Durenberger, Packwood, Chafee, and Danforth. Senator Baucus?

Senator BAUCUS. Gentlemen, I am wondering, in your judgment, if there has been any solid analysis of what effect this agreement will have on the trade deficit with Canada?

I know that the USTR has some analyses, but the USTR has an axe to grind, too. I am just curious if you are aware of any good, solid, significant analysis that will shed any light on that subject.

Mr. TROWBRIDGE. Senator Baucus, I don't know of a specific study of that kind. We can certainly review the records and, if there is one that we feel is useful, we would be more than happy to give that to you as part of the record.

I think that the general proposition that we feel is supported by the data is the one we just talked about in terms of the significant reduction of tariff levels on the Canadian side versus what we have now.

Senator BAUCUS. Mr. Oswald?

Mr. OSWALD. Senator Baucus, I would just like to say that it is very difficult to do projections because one can't even get a clear answer on what is the current trade deficit.

Mr. Trowbridge indicated the figures for 1986 as showing a $13 billion deficit, and that is the figure that is currently being used by the USTR. Prior to the adoption of that figure, Commerce was reporting a $23 billion trade deficit, almost twice as large.

Senator BAUCUS. Twice as large as the USTR's estimate?

Mr. OSWALD. The reason for the change is that the United States readjusted all of the figures with Canada based on the Canadian statistical bureau's analysis of trade with the United States, rather than our Commerce and Census Departments trade analysis with the United States, and revised those figures on the basis of what the Canadians said, all the way back to 1970.

So, if you can't even reach agreement as to where we were in 1986, and if you can adjust those figures by nearly half—and I

must say that I have some question as to why in 1986 this difference with Canada emerged. It is very difficult to see why this change doesn't have really more of a political impact at this time than a statistical measure of what has changed and the fact that the United States accepted totally the Canadian evaluation makes it awfully difficult to project towards the future.

Senator BAUCUS. It is like the difference between OMB and CBO deficit projections.

Mr. OSWALD. Yes.

Senator BAUCUS. The Administration sometimes points out that, Canada has filed more antidumping cases against the United States than the United States has filed against Canada. So, what is the big deal?

What is your response to that?

Mr. OSWALD. The big deal is that the United States has never aggressively helped any of its industries in terms of providing the background data, concerning subsidies and subsidy situations.

The Canadians have, and I think it highlights the total difference in Canadian versus United States attempts to help industries that are affected by trade; and I think as we go into the new procedure that is set up here, American industry will again be disadvantaged because those industries will not get the help as they go through this new speedy process with arbitration, while the Canadian industries will.

Senator BAUCUS. That is a good point, but I think, in addition to the number of cases and the degree to which each side is aggressively pursuing its own interests, there is another factor here. And that is, even though Canada may have filed more, the volume affected by the United States filings is much greater than the total volume of the Canadian filings.

That is, we bring big ones whereas the Canadians tend to bring little ones.

Mr. OSWALD. Yes.

Senator BAUCUS. And the fact, too, is that the action we brought affecting Canadian stumpage and lumber—that one alone virtually equals all of the Canadian antidumping actions put together.

So, on a volume basis, our actions against Canada and our worries about Canada are much greater than are Canadians' concerns.

Mr. OSWALD. And our cases drag on for 4 or 5 years. The stumpage one has been going on for at least 5 years without a good resolution.

Senator BAUCUS. Thank you very much. Senator Daschle?

Senator DASCHLE. Thank you, Senator Baucus. With the opportunities that we have to question witnesses, I try to be as specific as I can with regard to my concerns on the issue of subsidization.

We can talk about a broad range of things, but that one interests me the most for a number of different reasons. I was interested in your response, Mr. Oswald, to the question asked in regard to which is the more damaging, that of tariffs or that of subsidization.

You said somewhat unequivocally that you thought it was subsidization. Subsidies, tied with exchange rates, concerns me a great deal, especially in the early years of the post-agreement phase and the impact it would have in an immediate way on some of these industries.

Mr. Trowbridge, I would like your analysis of that. You did express disappointment that we failed to reach any agreement on subsidization; but in this very competitive area, obviously your interest in expanding markets to Canada will be affected a great deal by exchange rates and by subsidization.

Can we be competitive in Canada with the clear imbalance that appears to exist with regard to subsidization?

Mr. TROWBRIDGE. I think we have to operate on the assumption that, in spite of the disappointment that subsidies as a problem were not effectively dealt with or solved in this set of negotiations, they did recognize and plan for negotiations in 5 to 7 years about the impact of subsidies.

During that time, all of the existing United States laws—antisubsidy laws—remain in effect. We can implement if, indeed, they are called for; and I think we just have to look at this area as one in which hopes were not fulfilled 100 percent, but there is enough in the total agreement to warrant its approval.

Canada is the largest single importer of our American manufactured goods. I think we are seeing in this country a good deal more sharpening of our competitive edge as manufacturers.

Admittedly, the exchange rate problem is a tough one and will continue to be one; but I go on the assumption that with this agreement, plus the aggressiveness of American manufacturers and exporters, we can come out all right.

Senator DASCHLE. In 7 years from now, if we fail to reach any conclusion with regard to subsidization in particular, but exchange rates as well, what would your advice to this committee be?

Mr. TROWBRIDGE. In 7 years from now? I guess if those were the conditions that existed 7 years from now, we would probably want to go back to the Canadian government and say: Let's take a look at this thing and see whether it is working right. Can we renegotiate?

Senator DASCHLE. I am saying that if, after 7 years of negotiation, nothing has happened with regard to the elimination of subsidies. Now, of course, we would like to be able to resolve these subsidy negotiations.

Let's assume, however, it doesn't. Now, Mr. Oswald has said that he believes that subsidization is even a greater detriment to fair trade than are tariffs. I am asking you if that is the case, or even if it were a detriment of equal impact, what then do we do?

Mr. TROWBRIDGE. My only answer, Senator, is that if we have come to that point and we feel that it is of sufficient detriment to our economic interests, we ask for reopening of the negotiations.

Senator DASCHLE. You suggest then that we just keep negotiating?

Mr. TROWBRIDGE. I don't know of any other substitute for that, other than a unilateral termination of the agreement.

Senator DASCHLE. But you can't see supporting a unilateral termination under those circumstances?

Mr. TROWBRIDGE. I would be reluctant at this point to say that something as potentially advantageous as this agreement appears to be to us should be based upon an assumption of something 7 years from now, that we should say at a date certain in 1995, or whenever that would be, that we ought to terminate it.

I think it is much too premature to come to that conclusion.

Senator DASCHLE. Mr. Oswald, I have just a little time remaining, but please respond.

Mr. OSWALD. I would just recommend that you reject at this point the agreement; if they wish to have an agreement they should negotiate on exchange rates and on subsidies; and when they have a total package that provides that America is on a level playing field with Canadians, then they should come back to the Congress with an agreement.

But at this point, they don't have an agreement, which is to our benefit.

Senator DASCHLE. Thank you.

Senator BAUCUS. Senator Packwood?

OPENING STATEMENT OF HON. BOB PACKWOOD, A U.S. SENATOR FROM OREGON

Senator PACKWOOD. Mr. Trowbridge, every now and then, an organization comes along that I am not familiar with. This one of yours, the American Coalition for Trade Expansion with Canada, I have not heard of before. Is it a new organization?

Mr. TROWBRIDGE. It is basically a list, and I can provide the list to you.

Senator PACKWOOD. I would like to have the list for the record, and maybe you can expand a little bit and tell me what it is. I know what it is, I guess—it wants the agreement—but when did it come together, and how many people are in it?

Mr. TROWBRIDGE. There are 560 organizations and companies in the list, starting out with ABC Custom Cedar Homes, Inc. and ending up with Woodhead Industries, Inc. It is a broadly based organization made up of American companies and associations, all of whom have agreed to support this free trade arrangement and who are listed in this group.

It is relatively informal, other than signing on to a statement of support.

Senator PACKWOOD. Could we have copies for the record?

Mr. TROWBRIDGE. Yes, sir.

Senator PACKWOOD. I would appreciate it.

Senator PACKWOOD. Mr. Oswald, I was kind of listening out of one ear when Senator Bentsen asked the question about tariffs and was our long-range policy of reducing tariffs good. Did you say "yes," that was a good policy?

Mr. OSWALD. In general, I thought that worldwide reduction of tariffs helps the transfer of goods and services; but what has happened is that exchange rate manipulation has dwarfed what tariffs once did. And in a sense, exchange rate manipulation is doubly worse than tariffs because, if we look at the Canadian situation, the 28 percent differential acts as a 28 percent tariff when United States goods are moving there.

But when they sell their goods in the United States, it amounts to a 28 percent rebate, making their goods 28 percent cheaper in the United States.

So, to that extent, exchange rate differentials dwarf the impact of tariffs and operate not only on United States exports to that country but on imports from Canada as well.

Senator PACKWOOD. Do you advocate going back to fixed exchange rates?

Mr. OSWALD. Senator, I don't think that we ever can go back to fixed exchange rates. That is a time that has come and gone; but we certainly need to have an exchange rate system that brings about a closer relationship to similarly situated countries.

There are some who are predicting that the United States relationship of exchange rates with Japan may go back to the 200 range. The sorts of fluctuations that we have had in exchange rates in the 1980s has been totally detrimental to any industry that tries to plan for the future.

One should not have the wide swings that have occurred, and one needs to coordinate the general approach to exchange rates in general and, certainly with Canada, we need to bring back the sort of experience that long existed with Canada where the United States-Canadian dollar generally traded around one-to-one.

Senator PACKWOOD. If we can achieve that—and not just with Canada but worldwide—a reasonable range of fluctuations, would you advocate then continuing on with mutual lowering of tariffs?

Mr. OSWALD. Senator, I am not sure that I would advocate total zero of tariffs. I would recommend that some small tariff should be maintained because the only way we get good statistics, sad to say, about what happens to trade flows is by the information that is supplied to Customs in terms of what is coming in.

And while that is not always exact, I would rather require somehow that we know what is coming in and that importers be required to file some bill of lading. That could be a minimum of one percent.

Senator PACKWOOD. All right. That you could do with a tenth of a percent if you wanted, so long as you knew the value.

Mr. OSWALD. Sure.

Senator PACKWOOD. Last question. Assuming we have the exchange rates reasonably well in hand, and you think we could move toward lowering of tariffs so long as you have some identification for valuation, do you feel the same way about mutual reductions of quotas?

Mr. OSWALD. In general, Senator, I think that the question of quotas needs to be reviewed at some time again in a worldwide situation. I would think that, as one looks at steel, one needs to think of the total swing in the worldwide surplus of steel.

Some of the quotas are interrelated to what other countries do in terms of subsidies and other programs; and I think that where there are particular international problem areas and particular products, one needs to look at means of solving those problems, rather than simply saying no quotas ever.

Senator PACKWOOD. Thank you, Mr. Chairman.

Senator BAUCUS. Thank you, Senator Packwood. Senator Chafee?

OPENING STATEMENT OF HON. JOHN H. CHAFEE, A U.S. SENATOR FROM RHODE ISLAND

Senator CHAFEE. Thank you, Mr. Chairman. Mr. Trowbridge, Mr. Oswald in his statement, on page 2, in the latter part of it says:

> The principal trade problem facing the United States is undeniably the massive trade deficits occurring in the manufacturing sector and the resultant loss of employment.

And then, he talks about the emphasis on liberalizing trade in services and investment and that it will have little impact on the significant central issue.

Now, what do you say about that? It seems to me that that is a pretty important charge; and you represent the NAM, the National Association of Manufacturers. Now, what is your response to Mr. Oswald when he says that there not only is a loss but will be an increasing loss in the manufacturing sector?

Mr. TROWBRIDGE. Clearly, our balance of trade, and the impact on our manufacturers of an overvalued dollar during the early part of this decade, took a terrible pounding.

We have, since mid-1985, seen a change to the point where there are now, I think, significant improvements in the picture, particularly with the Japanese, the Germans, the West Europeans, and a possible improvement with some of other countries such as Korea, Taiwan, Singapore, etcetera.

My answer, Senator, is that the manufacturing sector today is finding a much better opportunities under this more favorable exchange rate system; and after having gone through a number of very tough years and reducing costs in every possible way and improving productivity, even though the trade statistics don't show the change that we had hoped for as quickly as we had hoped, I think we are seeing that swing; and I think we are back into a much better position competitively in the manufacturing sector.

Senator CHAFEE. I do find it confusing here. I mean, I presume that your members are concerned about manufacturing; after all, that is what your membership is.

Mr. TROWBRIDGE. Yes, sir.

Senator CHAFEE. Now, could you be subjected to the charge that your members are major employers in Canada—many of them—with branches there, as I believe Mr. Oswald points out in his statement. He has made a statement here that many manufacturers have operations up there, and therefore, that is not a concern of yours—the manufacturing capabilities here in the United States

Not that Mr. Oswald is making that charge, but I am asking you. Your people's principal operations must be in the United States by far?

Mr. TROWBRIDGE. Yes, sir. We have 13,200 members. Most of the largest of the manufacturing community are members, and many of them are multinational, as you would imagine, with Canadian operations. Their support for this agreement, I think, is genuine, one in which they look at the world market and the reductions of tariffs in a trading area as big as this; and the easing of trade restrictions is one, in general, they support.

Senator CHAFEE. It would seem to me that any time you enlarge the size of the trading unit and reduce tariffs that you are going to

increase the standard of living. I point to the United States If the United States were divided down the middle, using the Mississippi River, and we were two separate countries with tariffs, I don't think the standard of living of the citizens in either section would be as great as it is now.

Thus, I believe instinctively that, by enlarging this to include Canada, we are going to make it better for both sides. However, when you take the illustration of the United States being a magnificent market and a high standard of living, we also have one currency.

Mr. Oswald pointed out that it is the exchange rates that are the floor here. Get rid of the tariffs, but that doesn't make up for the deficiencies that exist in the exchange rates. What is your answer to that?

Mr. TROWBRIDGE. Clearly, exchange rates have been an enormous factor. As I said, earlier in the 1980s when our dollar was so overvalued, manufacturers were really clobbered in the world marketplace. That has, I think, changed enough to predict improvement.

Senator CHAFEE. Improved enough, certainly vis-a-vis the Japanese, but how about vis-a-vis the Canadians?

Mr. TROWBRIDGE. We have seen the value of the Canadian dollar move from approximate parity in the mid-seventies to a low of 72 cents in 1986. Recently, however, the Canadian dollar has been up around 80 cents United States We have been with the Canadians at roughly 70 cents Canadian per United States dollar for, I am not sure, how many years now—five, six, seven? We have not obviously been able to close the gap on our trade balance with them.

But there is again, I think, a long-term value of this agreement which will come from the reduction of tariffs and the hope in the future on exchange rates probably will have to rest with the efforts of the Secretary of Treasury, the Group of Seven, and international efforts at getting exchange rates at a stable position and one in which we have a fair shot.

Senator CHAFEE. Thank you; my time is up. Thank you, Mr. Chairman.

Senator BAUCUS. Senator Bradley.

Senator BRADLEY. No questions, Mr. Chairman.

Senator BAUCUS. Any more questions? (No response)

Thank you both very much for your testimony.

Mr. TROWBRIDGE. Thank you, sir.

Senator BAUCUS. Our next panel consists of Mr. Harry Freeman, Executive Vice President, Corporate Affairs and Communications, American Express Company, New Ycrk, NY, on behalf of the United States Council for International Business; Mr. Robert McNeill, Executive Vice Chairman, Emergency Committee for American Trade, Washington, DC; and Mr. Richard W. Roberts, President, National Foreign Trade Council, Incorporated, New York, NY

Mr. Freeman, why don't you begin?

STATEMENT OF HARRY L. FREEMAN, EXECUTIVE VICE PRESIDENT, CORPORATE AFFAIRS AND COMMUNICATIONS, AMERICAN EXPRESS COMPANY, NEW YORK, ON BEHALF OF THE UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

Mr. FREEMAN. Thank you, Mr. Chairman and members of the committee. I am Harry Freeman, Executive Vice President of the American Express Company. I am pleased to be here today to support the United States-Canada Free Trade Agreement.

I am spokesman for a number of organizations today, principally the United States Council for International Business, which has several hundred members. I am also responsible and the lead company for the American Committee for Trade Expansion with Canada, which Senator Packwood asked about. That was started by my company, the American Express Company, and we now have close to 600 members of all kinds of companies around the country—big and small manufacturing services.

In total, it is the largest coalition ever put together; it is an ad hoc coalition, self-financing. It, of course, is for the purpose of trying to get the free trade agreement and the implementing legislation passed.

Also, since the Business Roundtable doesn't seem to be represented, I would like to mention that the Business Roundtable has strongly endorsed the free trade agreement; and if the chairman would permit, I would like to put in the record the Business Roundtable's strong statement of support.

Senator BAUCUS. Without objection, that will be done.

Mr. FREEMAN. Thank you very much. I would like to mention also that these endorsements by these organizations are not on a conditional "if" or "but" basis. They are not sometimes what you hear as well: If you change this, we like it; or if you change that, or if you take something out.

We endorse it as it is. Please pass the implementing legislation consistent with the free trade agreement and pass the free trade agreement unconditionally.

In considering the United States-Canada free trade agreement, the primary question we need to ask is whether the FTA is in the best economic interests of the United States. To, that question, I would answer a clear "yes," and I will elaborate on that a little more.

However, in reviewing the economic impact, it would be both foolish and irresponsible to overlook the many other fundamental interests of the United States that are wrapped up in the statement. When I travel around the country and talk to our members in these organizations, they talk about this.

This may sound a little like the State Department, but we feel strongly about it. The Canadian-American relationship is unique in the world. We share the most peaceful border that one could imagine, a border of over 4,000 miles in length—the longest border that I can detect.

Nowhere else in the world is there a convergence of geography and political harmony on such a grand scale. We assume that good relations now extant between the United States and Canada will

probably remain; but frankly, this is not necessarily the case. Rapid change is the hallmark of our times.

We now have an opportunity, the first in over 50 years, and probably the only time in our generation, to take concrete steps to ensure that we do maintain the secure and friendly border with Canada, as well as good, sound political, strategic and economic relationships.

That opportunity exists in the United States-Canada free trade agreement, and let me cite a precedent. I recall many years ago when I was in high school, reading and talking about World War II; we didn't see it on television in those days.

The French and Germans were at each other in 1914 and they were at it again in World War II with the Nazi aggression in 1939 and afterwards. The cycle has ended. Today, a Franco-German war is no longer even thinkable.

One clear reason for this is that the Treaty of Rome in 1957 started the formation of an economic union, the Common Market, among Germany, France, the U.K. and others. As the EEC marches inexorably toward complete elimination of its internal economic borders by 1992, the main political battles in Europe are now being fought over the Brussels budget, not over who occupies the Rhineland.

How fortunate we are that our United States and European predecessors—the people who gave us the Marshall Plan and helped secure a harmonious Western Europe—have given us this example of how geopolitical stability follows economic harmony. We must ponder the down sides of nonpassage of this agreement as well as consider the positive aspects of passage.

Now, we have an opportunity to secure a freer trading relationship with our largest trading partner, the country which shares our largest frontier, the country with which we share our most sensitive security secrets.

After all, the Canadians are the only country that have uniformed personnel sitting in Colorado with us, and we are with them along the Dew Line in the Arctic Circle. With no other ally do we have a closer relationship.

Do we wish to reject the opportunity presented by the free trade agreement? No, we don't.

Now, I could go on and talk about the economic advantages of this for a long time. We don't have the time to do that, and I think you have heard most of them.

We think that is a historic agreement. It is historic because we have covered investment for the first time. It is historic because we have covered energy. It is historic because we have covered services. We have covered all kinds of industries that we have never seen before, and it is a great breakthrough.

It is an historic breakthrough. Did we get everything we wanted? No. The Canadians are tough negotiators. This is the toughest trade agreement ever negotiated.

It will have a profound impact on GATT. If it is rejected, it will have send a terrible message into the United States and around the world. If it goes forward, it will help us in our bilateral relationships. It will help us with the GATT.

Therefore, in the 10 seconds I have remaining, I urge on behalf of all of the organizations I represent that this agreement be rapidly implemented as is. Thank you.

[The prepared statement of Mr. Freeman appears in the appendix.]

Senator DASCHLE. Thank you, Mr. Freeman.

Mr. McNeill.

STATEMENT OF ROBERT L. McNEILL, EXECUTIVE VICE CHAIRMAN, EMERGENCY COMMITTEE FOR AMERICAN TRADE, WASHINGTON, DC

Mr. MCNEILL. Thank you, Senator. I am glad to be here this morning to express the very strong support of ECAT for the United States-Canada Free Trade Agreement. We in our organization are frankly quite amazed at the scope of the agreement and the many areas that it covers.

Negotiation of as complex an agreement as this is, in the period of time that was available, I think, is a very remarkable achievement, and I think the negotiators from both countries are due congratulations and expressions of appreciation from many of us.

I had the privilege of being a senior member of the United States team that negotiated the 1964/1965 Automobile Pact with Canada. Following the congressional implementation in 1965 of the Auto Pact, we in the Government went out to American industry at that time to see whether other American industries would be interested in having the then Administration of President Johnson negotiate other sectoral arrangements with Canada to provide similar benefits to that for the automobile industry.

We found absolute apathy in the United States. There were no American industries interested. Our Canadian counterparts did the same in Canada and found that there was no interest whatsoever in Canada for a free trade agreement with the United States.

Senator DASCHLE. Mr. McNeill?

Mr McNeill. Yes?

Senator DASCHLE. Could I interrupt briefly?

Mr. MCNEILL. Surely.

Senator DASCHLE. I apologize for doing so. There is a vote on the floor, and you can see that I have been abandoned here on the committee, for good reason. There are just a few minutes left. Senator Baucus will be returning momentarily.

So, with your indulgence, I think I will recess the committee until his return so I can go vote.

Mr. MCNEILL. I would be delighted to accommodate.

Senator DASCHLE. Thank you very much.

[Whereupon, at 11:33 a.m., the hearing was recessed.]

AFTER RECESS (11:40 a.m.)

Senator BAUCUS. The hearing will come back to order. Mr. McNeill, I understand you were abruptly, rudely interrupted in the middle of your testimony. (Laughter)

I apologize for that.

Mr. MCNEILL. Senator, I had just started, and I had expressed the very strong support of ECAT for the Canada-United States

trade pact and expressed the hope that legislation could be enacted this year that would implement the United States obligations pursuant to the agreement.

I had then noted that, after the United States-Canada Auto Pact of 1964/1965 was concluded, American industries were asked if they would like the Johnson Administration to seek other free trade sectoral arrangements with Canada to further sectoral free trade initiatives. There was total apathy in the United States at that time.

So, no further initiatives were taken with Canada. The Canadians at that time also asked the same question of their industries. They went out and they said: " Would you like us to negotiate things similar to the United States-Canada Auto Pact." The Canadian industrial establishment at that time was very reluctant to have its government explore further free trade initiatives with the United States because of a fear that they would not fare well in any competition in a border unrestrained with impediments to trade.

Since then, of course, we have had the Kennedy Round results and the Tokyo Round results, and now a very substantial negotiation with our Canadian colleagues; and we think that the resultant agreement is amazing in the scope of its coverage and in the specificity of many of its provisions, and we think that they are good things.

We have problems in the United States that you were hearing, some of which you have expressed yourself, Senator, about possible adverse economic impacts that might result in the United States. I think the fears in Canada are greater.

I have been invited for each of the past 2 years to meet with the leaders of the Ontario Parliament, the House of Commons, to discuss with their leaders United States trade legislation, including the United States Auto Pact. And those gentlemen in Ontario, as you know, are scared to death about this agreement.

And as Mr. Oswald said on behalf of the AFL-CIO, Canadian labor is also opposed. So, we have labor federations on both sides opposed. The Canadian labor unions are opposed because they see where their manufacturing base is concerned that they could see considerable erosion.

So, I think from their perspective, it took a great deal of courage for the Canadians to enter into this agreement. We would hope that, if the agreement is implemented, the concerns that you and other Senators have expressed today could be accommodated somewhere down the line, if not at the present.

We would hope that the agreement is viewed in a perspective of a continuum of negotiations and not as the end of negotiations with Canada because the agreement does leave many areas somewhat open. We in ECAT, for example, are concerned that intellectual property accords were not included in the agreement.

We share your concern that subsidies were not included in the agreement to a greater extent than the agreement provides. We understand, however, that negotiators from both sides were unable to move very far in the area of subsidies because our negotiators felt that they were in no position to make commitments concerning

United States subsidies, and their Canadian colleagues felt the same.

It is a very troublesome area and an area that we would hope could be resolved in the future by continuing negotiations.

We are also somewhat disappointed with the foreign investment provisions, particularly the maintenance of a screening requirement of proposed United States acquisitions of Canadian companies with a value of $150 million or more. We think that is an obstruction to investment in Canada that we would like to see removed in future negotiations.

On the Auto Pact provisions of the agreement, we think that they are good, and we welcome those.

In short, we in ECAT are just delighted. There are problems but the problems are in no way of a magnitude that would cause us to want to see the agreement opposed in the United States. I thank you, sir.

[The prepared statement of Mr. McNeill appears in the appendix.]

Senator BAUCUS. Thank you.

Mr. Roberts?

STATEMENT OF RICHARD W. ROBERTS, PRESIDENT, NATIONAL FOREIGN TRADE COUNCIL, INCORPORATED, NEW YORK, NY

Mr. ROBERTS. I am here on behalf of the National Foreign Trade Council, and the Council is also a member of American Coalition for Trade Expansion with Canada. That doesn't mean that the members think in lock-step, it is a loose coalition, the goal of which we strongly subscribe to.

The National Foreign Trade Council strongly endorses the United States-Canada Free Trade Agreement and urges that Congress approve it and the necessary enabling legislation.

There are four main reasons why the agreement is needed. One, the Canadian market is more protected than the United States market and so, we have much to gain by removing many of those protective features.

Second, the agreement would call a halt, for the most part, to the creation of new barriers, which would provide greater certainty for United States business.

Third, given the volume of trade between the two countries, disputes have been and will continue to be inevitable; and the agreement, by providing a mechanism for the settlement of such disputes, will promote a stable and predictable business relationship.

And finally, the growth of international competition from all sides has made it imperative that both the United States and Canada's industries increase their competitiveness; and that competitiveness would be enhanced by conducting operations in a larger single market, as opposed to separate United States and Canadian markets.

So far as the economic effects, most economic analyses indicate the agreement would have a positive impact in both countries. You have the elimination of tariffs and nontariff barriers, and that is likely to result in increased United States exports to Canada, increased United States employment over time, and an enhanced ca-

pability of United States industry to compete both in the Canadian market and in the international market as well.

While some Canadian industries may gain increased market share in the United States, we believe the benefits of the agreement for United States business as a whole will greatly exceed the cost of adjustment in those sectors of United States industry which must adapt to increased Canadian competition.

The agreement doesn't accomplish everything that our negotiators and some individual members of the business community would have liked, but our assessment is that the agreement accomplishes a great deal; and an appraisal of its merits must be based on its overall benefits, rather than its effects on any single sector or particular company, industry, or interest groups.

Moreover, the agreement has built into it several features which will aid adjustment and adaptation to the new conditions: first, the gradual reduction in tariffs; second, the agreement foresees further negotiations on a number of unresolved issues, which will offer the parties the opportunity to make improvements and fill in gaps.

And third, there is the consultative body, the United States/Canada Trade Commission, which can resolve disputes and handle other issues that are appropriate as they arise relating to economic relations between the two countries.

In short, the agreement not only is a set of rules, but it is the beginning of a process which should enhance economic growth for both countries.

In the multilateral context, there is no doubt that the agreement contains some provisions which can be useful in the GATT; however, we would caution that the number of such is limited.

For example, there are grandfathering features of the United States-Canada agreement which we would not want to see incorporated in GATT negotiations on services and investment.

Finally, it has been proposed by some that this agreement would make a useful model for other bilateral agreements between the United States and other countries. We would simply caution that that should not be, in our view, advanced at this time.

After the GATT talks are completed, it would be appropriate to take a look and see if the GATT has accomplished what we hoped it would accomplish. If it has accomplished far less than that, there may be a justification in certain limited cases for a bilateral trade negotiation between the United States and a few other countries.

But for the present and until the GATT talks are over, we would not recommend that the United States-Canada agreement be a model for negotiations commencing immediately.

Mr. Chairman, in conclusion, we respectfully urge that the United States-Canada Free Trade Agreement be approved by Congress. It is a major step toward a more open international trading environment.

[The prepared statement of Mr. Roberts appears in the appendix.]

Senator BAUCUS. Thank you, Mr. Roberts.

Mr. McNeill, what is the chief practical benefit that your membership thinks it will achieve if this agreement is agreed to, as a practical matter?

Your membership's obligation to its shareholders, as a practical matter, what is the greatest benefit that your membership will see?

Mr. MCNEILL. I can only surmise the answer, sir. I have not asked that question of the members, but I would surmise that the answer is that it would give them greater certainty in terms of access to the Canadian market, both in terms of investment and in terms of our exports up there.

I would guess that, of United States direct investment in Canada, my companies would probably account for the great bulk of that. General Motors of Canada and Ford of Canada, for example, are very large companies up there.

So, my members are on both sides of the border, and the absence of tariffs and other restrictions would increase the size of, if you would, the North American market for which they produce. It would be a larger market, allow grater efficiencies of scale and production, in terms of location decisions, inspecting where investment should be put into effect.

I think the liberalization of investment restrictions in Canada would be helpful. I think our members see this as creating a very substantially larger market than at present. I think we would increase it by about ten percent. I think that would be the benefit.

Senator BAUCUS. Thank you. What about the concerns that you heard this morning, namely Senators Cohen and Mitchell about the potato industry, Senator Daschle about agriculture? And you heard me comment on the problems that the natural resources industry is facing in terms of Canadian subsidies.

Do you think that the natural resources industry that directly compete with Canada, particularly subsidized Canadian industries, have a legitimate concern, that under this agreement, although it reduces tariffs, it does not sufficiently address the reduction of Canadian subsidies?

Mr. MCNEILL. Senator, I would view the agreement as a framework and the specific operations of our respective economies will go on. Canadians will continue to subsidize as will Americans continue to subsidize; and the hope is that there can be future agreements to bring these things under control

This in no way belittles the problems of the Maine potato growers.

Senator BAUCUS. But is that a fair statement because the agreement specifically calls for reduction of tariffs over 10 years.

Mr. MCNEILL. Yes, it certainly does that.

Senator BAUCUS. It does not specifically call for reduction of subsidies. There is no binding requirement that the discussions on subsidies reach any significant or definite agreement result.

There is no requirement—there are just talks—whereas the agreement does provide for specific reductions of tariffs in a certain number of years and also will enable American companies to invest a little more easily in Canada, at least prevent some of the potential restrictions to investment in Canada.

But some industries like the potato industry compete with subsidized Canadian industries. This is a real, legitimate concern, it seems to me. Don't you agree that they have a worry, a concern?

Mr. MCNEILL. Sir, I don't think that an agreement between two countries can in any way have subsets, if you would, that deal with

each and every subsidy provided by States, municipalities, federal governments. I don't think that kind of an agreement is possible.

I think the agreement has to look to establishing a framework within which things such as subsidies at least have limits and perhaps, in some instances, would have prohibitions.

I recall—and this is anecdotal, and perhaps of no use whatsoever but—back in 1964, the genesis of the Canada-United States Auto Pact was that the Canadians were using a tariff remission scheme to encourage production of automobile parts in Canada. Now, that ran afoul of our countervailing duty statute in the United States; and we talked to the Canadians about how bad it was for them to use subsidies.

And the Canadian Minister came down to visit the United States Minister whom I then worked for, Secretary of Commerce Luther Hodges, and he brought with him a compilation—a two-volume compilation—of the United States Joint Economic Committee of our Congress, a two-volume listing of United States subsidies, both Federal, State, and otherwise.

So, it is a question where people all have dirty hands, and I could not conceive of an agreement that could handle each and every one of those things in those two volumes.

Senator BAUCUS. I don't mean to get argumentative with you, but all independent, objective analyses of the degree to which each side subsidizes conclude that Canada subsidizes its industries significantly more then the United States

I don't know anyone who disputes that.

Mr. MCNEILL. I am not disputing that, sir.

Senator BAUCUS. I am a bit surprised, frankly, that you don't agree that some of these other industries have a concern. It seems to me that your chances of encouraging Congress to ratify the implementing language are enhanced, the more you can join with the potato industry, wheat producers, plywood producers, smelting industries, who have—in my view—a very legitimate concern so that we draft implementing language that meets the concerns of these industries.

Mr. MCNEILL. In no way, sir, would we disagree that there are not problems, and in no way would we not have absolute sympathy with those problems. We would hope that, if they are amenable to being accommodated in the implementing legislation, that in fact would be the case.

The stricture there, I think, is that if the implementing legislation modifications modify the agreement itself, that would cause a problem; but within those margins, we would hope that people's problems on this side of the border, in fact, could be accommodated. We have absolute sympathy with them.

Senator BAUCUS. And I suggest that your chances of success are further enhanced if you make that point very strongly so the administration drafts implementing language that addresses these concerns and meets the concerns of many Members of the Congress.

Any of you have any strong statements you want to make? Yes?

Mr. FREEMAN. On the subsidies point, I think one has to ask the question, realizing that it is a continuing problem, realizing that both countries do subsidize extensively, and probably I assume

Canada subsidizes more—although not necessarily on an industry-by-industry basis: Do you really have a better chance of working at that problem if we pass this agreement, which calls for continued consultations on this?

Or do we reject the agreement and then try and sit down and talk with the Canadians about subsidies?

Senator BAUCUS. That is an easy question for me. It is rejection because otherwise we have given up our leverage. Canada wants guaranteed access to American markets.

Most of its industries want guaranteed access to American markets. They are worried that the United States Congress in a trade bill might pass, protectionist legislation which will adversely affect Canada.

Canada sees that we are the biggest, largest, most lucrative market, and they want that access. My view is, that the agreement as it stands, tends to give up some of our negotiating leverage with Canada.

Mr. FREEMAN. With respect, Senator, I would come down on the opposite side because I think, if we reject this, we are not going to have an agreement for 10, 20, 30 years—in this generation. I think on both sides of the border, it is a major political step. Frankly, it is a bigger step for the Canadians; and, make no mistake, I don't think this agreement is perfect. Nobody is arguing that.

I just think if we don't pass it and they don't pass it the Canadians are not going to come around and say let's try again next year. I mean, they think this is a one-in-a-generation shot. Second, I think frankly that many of the industries that are referred to as complaining, I don't think, are complaining.

I mean, these are some of our members. We just talked to Weyerhauser the other day; they are in favor of it. Every power company that I can think of in the western States has come out in favor of it.

Two days ago, the Western Regional Council, which is I think 49 major companies in the western States—particularly in the northwestern States—endorsed it unconditionally. The National American Paper Institute has endorsed it.

The opposition is widely scattered. Most of the companies—and I have talked to a lot of them—feel that, look, it isn't perfect; it won't be perfect, but on balance this is better than we have.

There are a lot of areas that have not been treated in this agreement. It is a tough negotiation; they couldn't do it. Maybe we can improve on it, but I would still argue that it is better to go ahead with this and have the framework—a friendlier framework—in which to deal with the issues that were not covered that what could be a very hostile framework, which I don't think will admit successful negotiations on subsidies or other areas.

Senator BAUCUS. You touched, I think, on part of the problem, and that is the big guys can adjust to it more easily than can the little guys. Potato growers are not multinational corporations. The wheat producer in Montana and South Dakota is not a multinational corporation. Weyerhauser is.

The larger companies can adjust more easily through investment decisions. There are all kinds of ways a major company can adjust to and take advantage of a free trade agreement.

I think all of us are for free trade. The concern, is for the smaller guy, the little guy who cannot adjust. Those are the concerns that this agreement does not sufficiently address because as the smaller guy tends to bear the brunt of Canadian subsidies more than does the bigger American guy.

Mr. FREEMAN. May I try to respond to that, Senator?

Senator BAUCUS. Sure.

Mr. FREEMAN. We have a lot of smaller companies in our membership in the coalition. Most of them are concerned with the tariff and they feel that they can ship more. There is one industry with which I am familiar, and I am in, and this consists of virtually all small businesses. This is the tourism industry, which is probably the largest industry in most every Western State in terms of revenues and jobs, although the statistics are not that great.

This kind of agreement, I think, will continue to facilitate and enhance tourism, moving more tourists into virtually every Western State in the massive, spectacular national parks. The number of Canadians going to those is roughly 20 percent per year. Now, one could argue that three tourists can go elsewhere but they are not going to go elsewhere.

Rejecting the Canadian agreement could have a very high price over the years. These are all small businesses—the motels, the restaurants, the bars—where those are allowed in the various States—the concessionaires in the national parks, the State parks—a massive industry.

We have this wonderful relationship of a virtually open border. Indeed, my wife and I hiked through the Glacier Peace Park to Waterton, with no hindrances at the border. Half the people were Canadians coming the other direction.

I would not put that at risk. I think rejection of the agreement would have a very high toll in that industry, which is a very small business industry.

Senator BAUCUS. We have the same goal. I just urge you to work with the Administration to try to help address those legitimate concerns of other industries: Canadian subsidies. Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman. I appreciate having the testimony that these gentlemen have given us; and their testimony doesn't come as a surprise because most of them have been deeply involved in international trade matters for many, many years. I have worked with certain of these groups before.

I will say this. In response to the chairman's concerns, we are confronted by virtue of the fast track procedure here—yes or no—that is it. Thus, we have to make our judgment on the overall viability and benefits that come from the agreement.

I think the scale comes down on the side of the agreement. All of us would like something better. We heard earlier the testimony of Senator Cohen, who is involved with fisheries, as are the citizens and constituents in my State deeply involved with that.

But overall, I think it presents—as pointed out in his testimony—the best future for our citizens. And it will be a major contribution and improvement—and maintenance—I think now we have to fight for the maintenance of our standard of living.

So, therefore, after hearing the testimony at these hearings, I find myself in support of the agreement.

I apologize for not being here to hear your testimony, gentlemen, but have you discussed the exchange rate problems that were brought up by Mr. Oswald? Have any of you touched on that? (No response)

Senator CHAFEE. Mr. Freeman, you are in that kind of business.

Mr. FREEMAN. Yes. If I understood Mr. Oswald correctly—and I wouldn't want to put words in his mouth—he suggested that the Canadians, to put it bluntly, manipulate the Canadian dollar for trade.

Senator CHAFEE. Well, I don't think he said they manipulate it. He just said it is a fact; it is there.

Mr. FREEMAN. Let me put it this way. I think that the Canadian dollar, which has risen quite a bit recently to around 80 cents, just like the United States dollar which has gone down and improved our export position, is going to be a factor in trade.

The value of currencies over time necessarily reflects the economic perceptions. Governments can only intervene and have a certain amount of impact. They can burn the arbitragers and so forth for a couple of days.

But I think he is right in the sense that the exchange rate can be a very major factor in trade; but I don't think that has much to do with the trade agreement.

I don't think we can come to the Canadians and say: We want to have a fixed exchange rate with you guys and nobody else in the world. That is not going to work. It is going to work to improve the exchange rate if; one wants a more stable exchange rate environment, which I personally do, I think you have to work through the G-7 and work on such problems as we have in our twin deficits in other countries as well.

It will not come from a trade agreement.

Senator CHAFEE. Let me ask you a question that gets more pertinent to your own business, addressing you with your hat as Executive Vice President of American Express, rather than as a spokesperson on behalf of the United States Council of International Business.

What about the financial services sector? How do you think they come out in this?

Mr. FREEMAN. I think we came out very well. One has to realize that, if you look north at Canada, you see the same pattern as when you look at the financial service industry in Europe and every other developed country, namely a very small number of very large institutions tend to dominate.

In Canada, you have five large and very efficient and very well managed chartered banks and a small number of very large insurance companies. So, when I have read in the Canadian press that they are going to be swamped by the big American banks, this is ridiculous because the market in Canada is pretty much dominated by institutions which would fall in the top 20 or 15 of American financial institutions.

Senator CHAFEE. How about Shearson-Lehman, though? Are they going to be up there?

Mr. FREEMAN. Well, Shearson-Lehman actually a few weeks ago just closed a deal that sold out its roughly 27 or 28 percent interest in a brokerage house. I would assume that, if this agreement goes

forward, they will probably go in, either in joint venture or by themselves.

The main thing it will give my company will be the option to look at industries—parts of the financial service industry—such as some insurance, some mutual funds that we haven't had the option of looking at before.

We don't want to waste our time because it is banned. If the agreement passes, we will turn it over to our strategic planning and marketing people and say: Okay, you can now go into industry in Canada —

Senator CHAFEE. Can Shearson-Lehman go up there and open an office and peddle securities?

Mr. FREEMAN. Yes.

Senator CHAFEE. Now, what is the current situation?

Mr. FREEMAN. The current situation is they can't; they have to be a minority investment position. The investment restriction would be dropped.

Senator CHAFEE. So, you would be able to go up there and open an office?

Mr. FREEMAN. If we want to, yes, sir; and it is a very major advantage for us and for other similar companies; and the Canadians, of course, can come here.

Senator CHAFEE. Sure. What about buying a bank up there?

Mr. FREEMAN. If we wanted to, we can't now; we could after the agreement, if we wanted to.

Senator CHAFEE. All of these are based upon desire?

Mr. FREEMAN. It is a very major breakthrough on the investment side.

Senator CHAFEE. What about getting into the insurance business up there?

Mr. FREEMAN. In a more limited way, we could get into the insurance business. There are still restrictions, and we would hope that one of the things that would happen after this agreement is, in effect, on January 1, 1989, we could negotiate to do more in insurance. That is an area we are very interested in.

Senator CHAFEE. Why would this agreement be enlarged?

Mr. FREEMAN. Because I think there are a lot of areas in the agreement, Senator, that were not gotten to. I think if the Congress passes it and the agreement goes into effect, I think we will have a much friendlier environment in which to enlarge the agreement.

As I said earlier, I guess, if we reject it and the Canadians reject it, I think we will have a very hostile situation. I don't think we will be talking much about economic issues at all.

So, I would rather have the agreement with a few holes in it than no agreement at all because I think we can sit down and do better in the next several years with the Canadians if we have an agreement with them than if we have a bad situation with them.

Senator CHAFEE. Mr. Chairman, I see my time is up; but may I ask another question or two?

Senator BAUCUS. Yes.

Senator CHAFEE. All right. Mr. McNeill, ECAT has been involved with these matters for a long time. Do you agree that, if we take these first steps—even though they might not be complete—further liberalization will occur if we proceed as Mr. Freeman says?

Mr. MCNEILL. I can see no other result, Senator than that. This considerably expands the institutional framework within which we conduct our mutual economic relations; and I think it is the intention of both countries to continue to improve on the agreement in such areas as intellectual property and perhaps services—other than financial services which came out very well.

And I would expect this to be part of a process where we would continue to seek greater access to the Canadian market and vice versa through future negotiation.

As Mr. Freeman said, and I think it is a very important point, that if this agreement should go down, I don't think we would be able to count on the status quo as it is in terms of our commercial relations. I think it will be a much more testy, if you would, political and economic relationship between the countries with many more disputes and, with respect to the chairman, many more subsidies would show up in both countries in terms of their mutual trade.

So, I think if this agreement should fall in either country, we will have retrogression, I think, rather than a continuation of the status quo.

Senator CHAFEE. So, it is possibly a potential plus and a potential minus.

Mr. MCNEILL. I think it is an enormous plus if enacted on both sides of the border and a very substantial negative if it is not. I don't think it will be 10 to 20 years, as Mr. Freeman suggested, before we again could sit down and contemplate an agreement of this sort with Canada. I think it would be a much longer period of time.

Senator CHAFEE. Thank you, Mr. Chairman.

Senator BAUCUS. Senator Bradley?

Senator BRADLEY. Thank you, Mr. Chairman. If this agreement passes, then we have the possibility of establishing working groups in automotive trades, investment rules, intellectual property protection and services.

What do you think the negotiating objectives should be for such working groups, and who do you think should be on the working groups? Mr. Freeman?

Mr. FREEMAN. I think the objective would be to expand the agreement as before. Second, to work towards more national treatment because what we have in services generally in the FTA is a grandfathering of the existing restrictions in some areas there has been a breakthrough.

So, objective number one would be to try and remove existing restrictions that have been grandfathered, to try to get us to a complete national treatment basis where we can go in and be treated like the Canadian companies there.

I think another area would be cross-border sales without having establishments in the United States by Canadians or United States people having to put facilities in Canada.

I think a key one that we did not succeed on is the Canadian limitation of the deductibility of television advertising expenses on American TV in Buffalo and maybe Minneapolis and Seattle television stations, which is directed at Canadian audiences. It is the old

C-58 problem. This issue just couldn't be resolved in this negotiation.

On services, we didn't get a government procurement agreement applying to the Canadian Government and the Provinces. Currently many of the rules limit service suppliers to Canadian firms. We have similar kinds of rules, and that would be another issue at the top of my list.

The air freight business could be another one at the top of the list. What is interesting is that the air freight business is really controlled by the aviation bilateral agreements we have with dozens of countries around the world, but all were negotiated with the idea of passengers.

In fact, it is a little known but emerging statistic that more than half of the exports and imports coming into the United States are now by airplane, not by ship and train, in dollar value. I mean, those computer chips and VCRs and all that stuff don't come on ships; they come on planes.

We have more than half of our imports and more than half of our exports by plane, whether by air freight or in the bellies of the big planes, which come to roughly 100 a day into Kennedy alone. I am told that we have something like less than 20 percent of that market for our own exports and imports.

I would put that one at the top of the list. Let's liberalize that and let's start it with Canada. I think we could have free trade in air freight. It is a rapidly growing industry and I think the United States pioneers could do very well, but they are very limited. I would put that.

As to who would constitute that, I think the present mechanism is working pretty well. I think the advisory groups that the USTR has have been working well; I am on the services one. We are going to visit Geneva; John Reed, our chairman, is taking us to Geneva in July.

If the USTR has done one thing very well, I think they have used their advisory groups very well. We have had very open discussions with Ambassador Yeutter and his staff, and I think he has done an outstanding job with the advisory groups. He convenes them; he listens; and where he can, he acts on it.

I think that those advisory groups, which also have counterparts in Canada, can be the basis for further discussions and negotiation. We have found it to be very effective in the last year.

Senator BRADLEY. Thank you. Mr. Chairman, I would like to request that other witnesses submit responses for the record. Is that possible?

Senator BAUCUS. Yes.

Senator BRADLEY. I want to thank the witnesses very much.

Senator BAUCUS. Thank you all very much. We appreciate your taking the time to come and testify. The hearing is adjourned.

[Whereupon, at 12:16 p.m., the hearing was adjourned.]

APPENDIX

ALPHABETICAL LIST AND MATERIAL SUBMITTED

PREPARED STATEMENT OF CHRISTAPHER M. BATES

The Motor and Equipment Manufacturers Association (MEMA) appreciates the opportunity to present its views to the Senate Committee on Finance regarding the impact of the U.S.-Canada Free Trade Agreement (FTA) on the U.S. motor vehicle parts manufacturing industry.

MEMA, founded in 1904, is the oldest continuous trade association in the motor vehicle industry. Today, MEMA is the trade association representing and serving the interests of U.S manufacturers of motor vehicle parts and components, accessories, chemicals and compounds, and related equipment.

Canada is by far our largest export customer, importing more than $13 billion worth of U.S. motor vehicle parts and accessories in 1986. In turn, the United States imported over $9.4 billion in parts and accessories from Canada in 1986. Based on part-year data, this trend continued in 1987.

U.S. export data, which are subject to undercounting, show a less favorable pattern of trade when combined with U.S. import data, but still indicate a very healthy bilateral parts trading relationship. It is in the interests of both countries that this relationship continue to prosper.

The FTA contains some positive features for our industry, including a phased reduction of Canadian tariffs on replacement parts for motor vehicles and the elimination in 1989 of Canada's duty remission on exports to the United States.

On balance, however, the FTA is a major disappointment for the U.S. motor vehicle parts industry. We do not believe it will do much to promote the long-term international competitiveness of the U.S. motor vehicle parts industry. Moreover, we lost a very good opportunity during the final stage of the negotiations to develop a much better agreement.

Provisions affecting automotive trade, which accounts for one-third of total U.S.-Canada trade, are a central part of the overall agreement. They therefore deserve very close scrutiny by all members of this Subcommittee and the full Congress.

While no industry should expect the FTA to address all of its concerns, this agreement has a critical shortcoming: the rule of origin which will determine eligibility for tariff reductions on motor vehicle and parts trade covered by the FTA. The agreement includes only a 50 percent

requirement, rather than the 60 percent level recommended by a very broad cross-section of U.S. and Canadian parts and vehicle manufacturers.

During hearings before the House Trade Subcommittee on February 9, Ambassador Yeutter confirmed that the U.S. Government offered, and the Canadian Government rejected, a 60 percent rule of origin. We continue to question the political and economic wisdom of this decision, and hope future discussions between our governments will reverse the mistake.

By rejecting a 60 percent rule of origin, Canada shortchanged vehicle parts producers throughout North America. The 50 percent rule in the FTA is inadequate, because it does not sufficiently promote the long-term competitiveness and prosperity of U.S. and Canadian parts manufacturers.

Justification for a 60 percent rule of origin

We believe a stronger rule of origin is essential to make the FTA a useful agreement from the standpoint of the U.S. parts manufacturing industry. Our industry is quite diverse, but is broadly unified behind achieving a 60 percent rule of origin.

There are several reasons why a 60 percent rule of origin is so important to U.S. parts manufacturers.

First, it would encourage a more rapid increase in purchases from U.S. parts suppliers by Japanese, Korean, and other third-country vehicle producers. In particular, it would give these producers greater long-term incentives to expand purchases of U.S.-made engine, transmission, and other high-value-added, advanced technology components.

This business is of strategic importance to U.S. parts manufacturers who are trying to develop long-term commercial relationships with manufacturers of foreign-brand vehicles in North America and overseas. As so-called "foreign transplant" vehicle production grows in North America, U.S. parts manufacturers must get their foot in this door or risk a serious decline in overall sales.

It is important to note that a 60 percent rule of origin is consistent with the announced plans of these transplant manufacturers to expand investment and purchases in North America. We think it will accelerate progress in this direction, by reinforcing the economic signals provided by more favorable dollar exchange rates.

Second, a 60 percent rule of origin also would foster more procurement by traditional North American vehicle producers from U.S. and Canadian rather than third-country parts manufacturers. This proposal would not jeopardise the international competitiveness of U.S. Big Three producers or their Canadian counterparts, which accepted it as a reasonable requirement for the agreement during the final stages of the FTA negotiations.

Third, a stronger rule of origin would partially offset existing incentives to increase use of third-country components, such as foreign-trade zones, the GSP program, tariff provisions 806/807, and multilateral duty-free sourcing privileges which Auto Pact members in Canada will retain indefinitely under the terms of the FTA.

Finally, a 60 percent North American rule of origin would improve the long-term balance in U.S. and Canadian benefits from the FTA, in view of continuing Canadian Auto Pact safeguards and only gradual phase-out of Canadian duty remission schemes.

MEMA recognizes that there are other provisions in the FTA affecting the U.S. motor vehicle parts industry which are of concern or fall short of original expectations.

We have chosen to emphasize the need for a 60% rule of origin because we believe it has greater commercial value to U.S. parts manufacturers, particularly over the longer term, than other changes which have been proposed. These other suggested changes include elimination of Canada's Auto Pact safeguards and a more rapid phase-out of its remaining duty remission programs.

Beginning in January 1989, all U.S. imports of motor vehicles and parts from Canada will be subject to the rule of origin requirements of the FTA. U.S. Auto Pact members will continue to be eligible for duty-free treatment if they meet the revised rule of origin in the FTA. Assemblers of foreign-brand vehicles in both the United States and Canada will be required to meet the same rules of origin to benefit from the phased elimination of bilateral tariffs under the FTA.

Thus, a stronger rule of origin provision is essential to ensure short- as well as long-term benefits to U.S. producers from the agreement.

In conclusion, MEMA urges this Committee and other members of Congress to take an active interest in improving the automotive provisions of the FTA. The United States and Canada both have a very great stake in ensuring that the FTA promotes a healthy, efficiently integrated North American parts production base and expanding market for automotive products.

The FTA currently does not move far enough in this direction. If approved in its present form without a clear statement of U.S. Government intent to seek near-term improvements, Canada is unlikely to work with us to make necessary changes.

If Canada remains unwilling to modify its position on a 60 percent rule of origin before the FTA takes effect, we urge Congress to provide language in implementing legislation to require further bilateral consultations to seek this objective. Such discussions should begin as soon as possible after the FTA comes into force.

Section 1004 of the FTA provides a possible framework for both future industry-to-industry and government-led consultations to refine the Agreement.

This section calls for the establishment of a "select panel" of experts to examine evolving conditions within the North American motor vehicle industry and propose public policy measures and private initiatives to improve its competitiveness. The FTA does not, however, provide guidance regarding the composition of this panel, its agenda, or a timetable for discussions.

At a minimum, we believe Congress, though FTA implementing legislation, should provide a clear mandate for this select panel. We recommend that the panel be given a one-year (January 1990) deadline for completion of initial recommendations to the President concerning ways to enhance the automotive provisions of the FTA. A stronger North American rule of origin should be identified by Congress as one of the principal issues for its review.

In addition, and of equal importance, we propose that Congress grant the President authority to strengthen the rule of origin provisions in the FTA through administrative action if Canada consents to such a change. We understand that the Canadian Government already has the authority to make this type of modification by regulation.

Adoption of a 60 percent North American rule of origin will greatly expand the benefits of the FTA to the U.S. motor vehicle parts industry and will broaden support for the agreement. MEMA urges further efforts by the Administration and Congress to achieve this important objective.

Statement of
Steve Beckman, International Economist
International Union, United Automobile, Aerospace and
Agricultural Implement Workers of America (UAW)

Mr. Chairman, I am pleased to appear here today to present the views of the UAW on the U.S.-Canada "Free Trade Agreement" (FTA). Because Canada is the largest trading partner of the U.S., and auto trade is such a large proportion of that trade, the UAW has a significant interest in the terms of the agreement. Careful examination of the final text has led us to conclude that the United States-Canada Free-Trade Agreement does not satisfactorily address the interests of American auto workers in auto trade, nor does the agreement promote U.S. employment and production which would reduce the large U.S. trade deficit with Canada.

The agreement eliminates tariffs between the two countries over ten years (some are eliminated immediately, some over five years and most tariffs are phased down over ten years) and changes U.S.-Canada trade in many product sectors. The implementation of trade laws is also affected by the FTA. Though the tariff elimination appears to be of broad significance, it effects relatively little trade. The majority of bilateral trade already qualifies for duty-free treatment. There will be gains and losses on both sides of the border from the elimination of tariffs, mostly on sensitive items.

The provisions of the agreement related to auto trade fail to eliminate the inequities in U.S. and Canadian implementation of the Auto Pact, which has set the ground rules for U.S.-Canada auto trade since 1965. In addition, the growing use of imported parts is not sufficiently discouraged by the agreement. Thousands of American auto workers' jobs would remain at risk under the agreement's terms.

One change made in the Auto Pact by the FTA was to restrict its coverage to those companies that already qualify for its benefits. The production and Canadian value-added requirements (safeguards) imposed on Canadian auto producers will continue, while the U.S. has no similar production requirements. One of the incentives to meet the Canadian safeguards, the ability to import duty-free from the U.S., would be eliminated in 10 years by the phasing out of the tariff on auto products included in the FTA, but another important incentive remains — the right to import duty-free into Canada from anywhere in the world. This benefit is worth an estimated $300 million annually to the Big 3 auto companies. Canada's use of these Auto Pact implementation conditions has contributed to disproportionate growth in Canadian vehicle assembly capacity. The continuation of these one-sided provisions under the FTA would serve

to protect that Canadian capacity if cutbacks in overall North American production take place. The reaction of North American-based producers to the current trends in the growth of built-up imports and transplant assembly is likely to include plant closings to reduce excess capacity. The failure of the FTA to change the terms of the Auto Pact makes reduction in U.S., rather than Canadian, production a preferable move for the companies. A UAW proposal to adopt a U.S. production requirement was rejected by the Administration's negotiators.

The UAW believes that, under the terms of the FTA, the North American value required of vehicles to qualify for duty-free entry into the U.S. would be too low to prevent serious erosion in the North American content of vehicles produced by the U.S.-based companies or to significantly increase the North American value included in transplants. The Auto Pact now requires that 50 percent of the value-added in vehicles be of North American origin to enter the U.S. duty-free. The UAW sought to raise this figure to 75 percent. The FTA changed the requirement to 50 percent of the direct cost of manufacturing (excluding overhead, profits, management compensation and some other payments included in "value-added"), but this figure is not high enough to assure the use of locally produced engines, transmissions and other major components. Efforts of U.S. and Canadian workers and parts producers to raise the 50 percent figure were unsuccessful.

The "rule of origin" adopted in the FTA would create two problems. First, it would allow the Big 3 to shrink the North American content of their vehicles down to the new standard, which is far below the present level. The ability to import into Canada duty-free from anywhere in the world and the large assembly capacity in Canada mean that many North American parts producers would be jeopardized by this provision. Second, the transplants, even though they are not eligible for Auto Pact status, would be able to export vehicles to the U.S. from Canada duty-free and still import major parts and components.

Two other Auto Pact problems were created by the FTA. The GM-Suzuki joint venture, located in Canada, would be eligible for Auto Pact coverage, even though it is not currently meeting the Canadian safeguards. This would allow the plant to import into Canada duty-free from anywhere in the world, a benefit that no other transplant can obtain. This was clearly included to strengthen GM's support for the agreement. It would reduce GM's costs for assembling vehicles using a high proportion of imported parts.

Because Honda's Canadian plant currently meets the North American value added requirement for duty-free entry into the U.S., it would be able to continue that benefit, as long as it met the new, slightly tougher rule of origin, even though Honda's U.S. operation cannot ship to Canada duty-free. This gives Honda an incentive to increase its Canadian production, both for local consumption and for export to the U.S., rather than U.S. production. It is expected that Toyota and Hyundai would also be eligible to ship to the U.S. duty-free from their Canadian plants under the U.S. Auto Pact implementation provisions. Toyota's U.S. output would be assessed duties on entering Canada, just as Honda's would. The inequity in this situation should have been unacceptable to our negotiators.

The long phase-out of vehicle and original equipment tariffs — the longest possible under the FTA, 10 years — would retain a very large tariff differential between the U.S. and Canada until the very end of that period. Canada's 9.2 percent tariff may discourage exports to Canada by U.S. transplants, while the U.S. tariff of 2.5 percent presents hardly any problem for shipments to the U.S. by Canadian transplants, especially since it appears the U.S. tariff would not even apply to any Canadian-assembled vehicles.

Finally, the auto provisions of the FTA leave Canadian production incentives for Honda, Toyota and Hyundai in place until 1996. Honda is already producing in Canada and the others will begin within the next year. The duties these transplant producers owe Canada on imports there can be offset by the value of their Canadian production. This is nothing less than a subsidy of Canadian production, much of which will be sold in the U.S. These "duty remission" provisions give Canadian parts producers an advantage over U.S. sources in obtaining supply contracts with these transplants. The supplier relationships established in the early stages of plant operation are likely to continue beyond the 1996 expiration of the duty remission program. Unless the program is ended immediately, U.S. suppliers will be at a disadvantage now and in the foreseeable future.

These problems with the auto provisions of the FTA would be sufficient to cause serious UAW reservations regarding the agreement. Unfortunately, there are other provisions that present similar problems. Most provisions in the agreement affect <u>future</u> changes in law or practice. Since Canada's economy now has significantly more government intervention than the U.S., the agreement tends to lock in that imbalance. The agreement would tie both governments' hands in addressing trade problems that may arise in the future. The Administration specifically sought this arrangement to prevent a change in government in Canada from expanding government intervention <u>there</u>. But the FTA also restricts future U.S. presidents from reversing this country's

current passive trade policy. Several sections of the agreement set precedents that will be used by the U.S. in the GATT negotiations that are already underway. There, the U.S. will try to obtain broader agreement to restrain government actions affecting industries and trade.

A number of industries were excluded from coverage under the FTA. Canada insisted that "cultural industries" be exempt and continue to be subject to Canadian government policies and regulations, whatever their impact on trade with the U.S. As a result, the publication, distribution or sale of books, magazines, newspapers, films or video recordings, music, television and radio broadcasts remain outside the FTA. The U.S. has regulations in many of these industries, but they are not as restrictive as Canada's.

Beer production and sale was also excluded from the agreement at Canada's insistence. Provincial rules in Canada make it easier to buy some brands of Canadian beer in the U.S. than in other Canadian provinces. Protection of small breweries in each province was the reason for Canada's reluctance to discuss this issue. The U.S. beer market is wide open.

In one industry in which the U.S. controls trade, the agreement would liberalize U.S. rules. Exports of crude oil from Alaska's North Slope are now prohibited. The FTA would permit Canadian imports of up to 50,000 barrels per day of North Slope crude oil. This may open the door to agreements with other countries to export Alaskan oil, making the U.S. more dependent on foreign sources and reducing the portion of oil transport reserved for U.S. maritime firms that use American crews.

The use of import fees was restricted by the agreement. The U.S. would have to phase out application of its 0.17 percent import fee, used to cover Customs Service costs, over five years; the loss of revenue will have to be made up with congressional appropriations. This provision would also prevent the U.S. from imposing an import fee on Canada to pay for the trade adjustment assistance program. The conference committee on the omnibus trade bill agreed to propose adopting such a fee on all imports.

The issue that fueled Canada's interest in these negotiations from the beginning, the application of U.S. trade laws to Canada, was resolved with some precedents that are unsettling to American workers. The anti-dumping (AD) and countervailing duty (CVD) laws of both countries would remain in effect for five years, while negotiations aimed at establishing a new system for treating products unfairly shipped between the U.S. and Canada proceed. The Canadian goal was to have domestic anti-trust laws (not

trade laws) apply to dumped or subsidized traded goods, or to agree on a list of subsidies that would be actionable (all others being acceptable). During this period, binational panels would replace the courts in the review of administrative decisions in AD and CVD cases. American workers have nothing to gain by treating unfairly traded Canadian goods under domestic anti-trust law rather than the current trade statutes. Developing a list of unacceptable subsidies would be equally unsatisfactory — it would allow Canada to structure its subsidies to avoid U.S. action.

The FTA contains another provision that would change the procedures for handling Section 201 cases (petitions for relief from fairly traded imports). A special track would be set up to address problems with imports from Canada resulting from the phase down of tariffs included in the agreement. In such cases, relief would be limited to no more than restoration of the prior tariff rate for a maximum of three years. This is a sharp restriction on actions otherwise available under Section 201.

For cases filed under Section 201's regular procedures, import relief would exclude imports from Canada if they were less than 10 percent of worldwide U.S. imports of covered goods. This restriction, combined with the above provision, would make achieving effective relief for a U.S. industry from Canadian imports more difficult than under current law.

The sections of the FTA that cover services and investment would set important precedents for the new GATT round as well as influencing U.S.-Canada economic relations. The services agreement covers a host of service industries, but the transportation sector was excluded because of U.S. objections to its maritime provisions. Existing laws and practices are unaffected — the agreement only requires that revised or new measures treat the other country's firms and individuals no worse than its own, allowing the ability to sell services in either market and to invest so as to be able to sell services. State and provincial measures governing service businesses are not directly affected by these provisions. In our view, the key difference between opening markets in goods as opposed to services is that services generally create employment in the market where the service is sold, not in the producing company's home market. This is true for the agriculture, mining, construction, wholesale trade, real estate and commercial services covered by the agreement. Since the U.S. market is already open, there is little chance of U.S. employment gains resulting from the FTA's provision. The same applies to the potential impact of a GATT agreement. The employment growth will come in the countries that open their markets to foreign firms and investment.

By pushing this issue, the U.S. may be expanding opportunities for U.S. firms, but it is not helping American workers or domestic employment.

The investment and financial services provisions of the FTA have an effect similar to the services provision. In investment, Canada limited its ability to review bids to acquire Canadian firms, but did not abandon that right entirely. The Administration, on the other hand, has strongly opposed an amendment to the trade bill that would require the government just to collect information on foreign investments. The FTA provision would also restrict government use of "performance requirements" — conditions that investors must meet in order to get approval for their projects. This limits the use of important industrial policy tools that the UAW has pressed the U.S. to utilize. In addition, important Canadian performance requirements and other investment restrictions in autos, culture, basic telecommunications and energy remain in place under the FTA; the U.S. has very few similar measures "grandfathered" by the agreement.

The FTA opens up Canada's financial services market for U.S. banks, insurance companies and other financial service firms (e.g. credit card companies, consumer loans). The employment generated by this new business will be located in Canada, not in home offices of U.S.-based firms. As with investment, the U.S. market is already open, so no benefits for U.S. employment can be expected.

CONCLUSION

Even this extensive review of the FTA has not covered all the areas included in the agreement. It does, though, explain those elements of the agreement that are likely to have the greatest adverse effect on American workers. There is significant U.S. opposition to the agriculture, energy, culture and dispute settlement provisions as well.

The result of the negotiations with Canada is more a "standstill" agreement than a "free trade" agreement. It permits impediments to free trade in a variety of important industries. By focusing on opening investment opportunities in Canada (services, financial services, etc.) the FTA reinforces a long-standing U.S. corporate response to the imposition of trade barriers —invest behind them. If this Administration showed a strong commitment to trade balance and export promotion (which would balance the employment effects of increased U.S. imports), we would be less concerned about the mere lip-service paid to breaking down trade barriers and the simultaneous vigorous promotion of foreign investment. However, the incredible accumulation of trade deficits during the past six years and the failure to respond to the complaints of U.S. exporters provide

ample basis for cynicism. We expect that the FTA on its own, and as a precedent for the GATT round, will provide even better opportunities for American corporations to serve markets abroad, but in a way that offers little benefit to American workers.

It is this fundamental feature of U.S. trade policy to which the UAW and the vast majority of American workers object. The FTA does, indeed, reflect the Reagan Administration's trade policy. It is a policy that has caused serious adverse effects for millions of workers and left the U.S. with trade deficits in materials, basic goods and high technology goods. The FTA does not address this policy failure.

Mr. Chairman, the UAW strongly believes that adoption of this agreement would not serve the interests of our members or other workers throughout the nation. The free market approach to economic policy practiced by the Reagan Administration would be enshrined by this agreement, yet much Canadian government intervention in its economy, such as the one-sided Auto Pact safeguards, would remain. There is no evidence that this agreement would contribute to reducing the U.S. trade deficit with Canada or significantly expand nationwide employment opportunities for American workers.

STATEMENT OF SENATOR WILLIAM S. COHEN

BEFORE THE COMMITTEE ON FINANCE

UNITED STATES SENATE

PROPOSED U.S. - CANADA FREE TRADE AGREEMENT

I APPRECIATE THIS OPPORTUNITY TO ONCE AGAIN SHARE MY THOUGHTS ON THE PROPOSED U.S. - CANADA FREE TRADE AGREEMENT (FTA). ALMOST TWO YEARS AGO TO THE DAY, I APPEARED BEFORE THIS COMMITTEE TO STRONGLY URGE THAT ANY BILATERAL NEGOTIATIONS ON A FREE TRADE AGREEMENT BETWEEN THE UNITED STATES AND CANADA MUST ADDRESS THE MAJOR TRADE DISTORTING ACTION IN INTERNATIONAL COMMERCE TODAY-- GOVERNMENT SUBSIDIZATION OF THE PRODUCTION AND DISTRIBUTION OF GOODS AND SERVICES. THE 200+ PAGE DOCUMENT WE HAVE BEFORE US SIDESTEPS THIS IMPORTANT ISSUE BY PROMISING COOPERATION BETWEEN U.S. AND CANADIAN TRADE OFFICIALS DURING THE ONGOING MULTI-LATERAL TRADE NEGOTIATIONS. UNTIL A SOLUTION IS FOUND, I ASSUME THAT GOVERNMENTS WILL BE ALLOWED TO CONTINUE TO SUBSIDIZE THEIR CONSTITUENCIES TO THE EXTENT THEY BELIEVE THEY CAN GET AWAY WITH IT.

SINCE I CAME TO THE SENATE IN 1979, I HAVE WATCHED MAINE'S NATURAL RESOURCE INDUSTRIES SUSTAIN LIFE-THREATENING ECONOMIC DAMAGE AS A DIRECT RESULT OF UNFAIRLY SUBSIDIZED CANADIAN IMPORTS. IN EACH INSTANCE, THE RESPONSE OF U.S. TRADE OFFICIALS HAS BEEN CALLOUS INDIFFERENCE TO THE FACTS AT HAND. IN VERY FEW INSTANCES HAVE OUR TRADE LAWS PROVIDED ANY MEASURABLE RELIEF TO THESE BELEAGUERED INDUSTRIES.

IN THE AREA OF ROUND WHITE POTATO TRADE, THE CANADIAN GOVERNMENT HAS EMBARKED UPON A LONG-TERM PROGRAM TO EXPAND EXPORTS TO THE EASTERN UNITED STATES AT WHATEVER COST NECESSARY TO CAPTURE THE MARKET. DURING THE ANTIDUMPING PROCEEDINGS FILED BY THE MAINE POTATO COUNCIL IN 1982, THE U.S. DEPARTMENT OF COMMERCE FOUND DUMPING MARGINS IN EXCESS OF 36 PER CENT BY CANADIAN PRODUCERS. YET, THE INTERNATIONAL TRADE COMMISSION (ITC)

COULD FIND NO CORRELATION BETWEEN THIS ASTOUNDING LEVEL OF DUMPING AND INJURY TO THE MAINE POTATO INDUSTRY. IN 1982, THERE WERE 930 POTATO GROWERS IN MAINE -- TODAY, THERE ARE BARELY 600.

THE CANADIAN RESPONSE TO THE ITC DECISION WAS PREDICTABLE. IMPORTS OF CANADIAN ROUND WHITE POTATOES HAVE INCREASED DRAMATICALLY, WITH THE RESULTING PRICE DEPRESSION -- AND DEPRESSION IS THE PROPER WORD -- THREATENING THE VERY EXISTENCE OF THE MAINE POTATO INDUSTRY. TO FURTHER TIP THE SCALES, THE GOVERNMENT OF PRINCE EDWARD ISLAND HAS RECENTLY BOUGHT A CONTROLLING INTEREST IN THE LARGEST POTATO DISTRIBUTOR IN CANADA. NOW MAINE POTATO PRODUCERS WILL BE COMPETING NOT ONLY WITH SUBSIDIZED CANADIAN GROWERS, BUT AGAINST A GOVERNMENT-OWNED SALES AND BROKERAGE AGENCY. --- WHERE WILL IT STOP?

TO ADD ONE LAST COMMENT ON POTATO TRADE, THE CANADIAN FEDERAL GOVERNMENT ANNOUNCED EARLIER THIS YEAR THAT IT WAS PAYING SOME $17.5 MILLION TO GROWERS TO COMPENSATE THEM FOR LOSSES INCURRED DURING THE 1985-1986 CROP YEAR. GROWERS IN MAINE REMEMBER THAT YEAR WELL -- ON AVERAGE, THEY RECEIVED 75 CENTS FOR A 165 POUND BARREL OF POTATOES THAT COST THEM $9 TO 10 TO PRODUCE. UNLIKE OTHER U.S. AGRICULTURE PRODUCERS, THERE ARE NO PRICE SUPPORT OR DIVERSION PROGRAMS PROPPING UP THE MAINE POTATO INDUSTRY. MAINE GROWERS ARE ENTIRELY ON THEIR OWN, AND THAT'S APPARENTLY THE WAY THIS ADMINISTRATION WANTS IT.

IN THE AREA OF FISHERIES TRADE, RECENT EVENTS HAVE INDICATED THAT OUR GOVERNMENT'S MESSAGE TO CANADA SHOULD NOT BE "LET US LOOK FORWARD TO A RELATIONSHIP OF UNRESTRICTED IMPORTS ON THE BASIS OF FREE TRADE." INSTEAD, OUR GOVERNMENT MUST MAKE CLEAR TO THE CANADIANS THAT UNTIL THERE IS SOME ADJUSTMENT OF CANADIAN PRODUCTION POLICIES -- TO ENCOURAGE FAIR COMPETITION IN THE

DOMESTIC MARKETPLACE -- CONTINUING OPPOSITION FROM U.S. FISHERMEN TO THE EXISTING UNFAIR TRADE PRACTICES CAN BE EXPECTED.

THE MAINE SARDINE INDUSTRY MAY WELL BECOME THE FIRST CASUALTY OF THIS PROPOSED AGREEMENT IF IT IS RATIFIED. NOT ONLY DID THIS INDUSTRY GIVE UP ALL TARIFF PROTECTION, BUT IT FACES SUBSIDIZED CANADIAN COMPETITION THAT CAN HIDE BEHIND A LITTLE-NOTICED PROVISION IN THE FTA. ARTICLE 1203, SUBSECTION c, ALLOWS NEW BRUNSWICK, NEWFOUNDLAND, NOVA SCOTIA, PRINCE EDWARD ISLAND AND QUEBEC TO BAN THE EXPORT OF UNPROCESSED FISH UNDER PROVINCIAL LAWS WHICH ARE GRANDFATHERED INTO THIS AGREEMENT.

THE IMPLICATIONS OF ARTICLE 1203 ARE ASTOUNDING. AT CERTAIN TIMES OF THE YEAR, THE MAINE SARDINE INDUSTRY DEPENDS ON CANADIAN FISHERMEN TO SUPPLY IT WITH RAW PRODUCT. FISH ARE A MIGRATORY RESOURCE, AND SOMETIMES THEY SIMPLY ARE NOT FOUND IN U.S. WATERS. IF THIS AGREEMENT IS RATIFIED, MAINE SARDINE PROCESSORS WILL BE AT THE MERCY OF THEIR COMPETITORS' GOVERNMENTS TO SECURE A SUPPLY OF RAW PRODUCT. PREDATORY PRICING AND GOVERNMENT SUBSIDIZATION PALE IN COMPARISON TO THE POTENTIAL DAMAGE A GOVERNMENT-IMPOSED EXPORT BAN COULD CAUSE TO THIS INDUSTRY. I AM SURPRISED AND DISAPPOINTED THAT OUR NEGOTIATORS ALLOWED THIS LANGUAGE TO REMAIN.

AT THIS POINT, YOU MAY HAVE ALREADY PLACED ME IN THE OPPOSITION COLUMN. FRANKLY, I HAVE NOT YET MADE UP MY MIND. WHILE I HAVE POINTED OUT WHAT I BELIEVE ARE THE MOST GLARING DEFICIENCIES IN THE AGREEMENT, THERE ARE CLEARLY SOME POSITIVE GAINS TO BE MADE -- IN ENERGY SECURITY, MARKET ACCESS, INVESTMENT AND SERVICES. MY CONCERN RESTS WITH THE COMMITMENT OF EACH GOVERNMENT TO RESOLVE THE DIFFICULT QUESTIONS OF SUBSIDIES, COMPLETE ACCESS TO EACH OTHERS' MARKETS AND OBJECTIVE DISPUTE RESOLUTION. IF OUR TWO COUNTRIES ARE CONTENT TO SIT BACK ON THEIR PERCEIVED LAURELS AND MAKE NO FURTHER ATTEMPT AT REACHING AN UNDERSTANDING ON THESE ISSUES, I FEAR THAT WE WILL HAVE ACHIEVED A HOLLOW VICTORY. IF, HOWEVER, THERE IS A REAL COMMITMENT TOWARD FUTURE RESOLUTION OF THESE OUTSTANDING PROBLEMS -- REINFORCED BY CONGRESSIONAL DIRECTION THROUGH THE ENABLING LEGISLATION -- THEN I MIGHT BE PERSUADED TO SUPPORT THE PROPOSED AGREEMENT. IN ITS PRESENT FORM, HOWEVER, I AM DISINCLINED TO DO SO. THANK YOU.

PREPARED STATEMENT OF HARRY L. FREEMAN

Mr. Chairman, Members of the Committee, I am Harry L. Freeman, Executive Vice President of the American Express Company. I am pleased to be here today to support the U.S.-Canada Free Trade Agreement as a spokesman for the U.S. Council for International Business, as well as for my own company.

The U.S. Council for International Business represents some 300 American companies, other firms and organizations concerned about international economic policy issues that affect business opportunities. The U.S. Council has a unique role as the U.S. business organization that officially consults with major international economic institutions, including the General Agreement on Tariffs and Trade (GATT), through its affiliation with the International Chamber of Commerce (ICC). The Council's Working Group on U.S.-Canada Trade Relations has followed the negotiations on a U.S.-Canada Free Trade Agreement since President Reagan and Prime Minister Mulroney announced this objective at the Shamrock Summit in March, 1985. The Council has drawn on the broad scope of its activities, including relevant work on investment, energy and services and in formulating its advice to the U.S. Government during the negotiations.

I should also note that both American Express and the U.S. Council are members of the American Coalition for Trade Expansion with Canada (ACTE-CAN), whose more than 560 members represent a degree of business support for the FTA that is virtually unique.

In considering the U.S.-Canada Free Trade Agreement, the primary question we need to ask is whether the FTA is in the best economic interests of the United States. To that

question, I would answer a clear "yes", and I will elaborate on that answer further. However, in reviewing the economic impact, it would be both foolish and irresponsible to overlook the many other fundamental interests of the United States that are wrapped up in the agreement.

The Canadian-American relationship is unique in the world. We share the most peaceful border that one can imagine, a border over 4,000 miles in length. Nowhere else in the world is there a convergence of geography and political harmony on such a grand scale. We assume that the good relations now extant between the U.S. and Canada will probably remain, but, frankly, this is not necessarily the case. We now have an opportunity -- the first in many decades, and probably the only one in our generation -- to take concrete steps to ensure that we do maintain this secure and friendly border with Canada, as well as a sound political, strategic and economic relationship. That opportunity exists in the U.S.-Canada Free Trade Agreement.

Let me cite a precedent. I recall, while in high school, reading and talking about the raging war in Europe. The French and Germans had at each other in 1870, 1914, and were at it again, through German aggression, in 1939 and on. But somehow this cycle was ended. Today, a Franco-German war is no longer even thinkable. And one clear reason is that the Treaty of Rome in 1956 started the formation of an economic union, the Common Market, between Germany, France, and eventually the United Kingdom, and others. As the EEC marches inexorably toward complete elimination of its internal economic borders by 1992, the main political battles in Europe are now over the Brussels budget, not the Rhineland. How fortunate we are that our U.S. and European predecessors, the people that gave us the Marshall Plan and helped secure a harmonious Western Europe,

have given us this example of how geopolitical stability follows economic harmony.

Now, we have an opportunity to secure a freer trading relationship with our largest trading partner, the country which shares our longest frontier and the country with which we share our most sensitive security secrets. After all, the U.S. and Canadian uniformed military personnel sit side by side, both under the Rocky Mountains and on the Dew Line above the Arctic Circle.

Do we wish to reject the opportunity presented by this Free Trade Agreement? No, we don't.

Let me then turn to the economics of the deal. Although our review of the Agreement has identified areas of the U.S.-Canada bilateral economic relationship on which further work will be needed in order to extend the benefits of the agreement to the broadest possible coverage, the main conclusion of the U.S. Council is that the agreement, as it stands, will significantly enhance the flow of goods, services and capital between the two countries.

This means benefits for the U.S. private sector in terms of new business, larger markets, economies of scale and improved competitiveness in world markets. It means more jobs for American workers, and greater benefits for American consumers in the form of lower prices and wider choices. It also means benefits for both countries in terms of a higher growth rates and a more efficient allocation of resources. For the United States, it is like providing assured, long term access to a market the size of California.

- The agreement will eliminate wirtually all tariff barriers in ten years or less and it will remove most other

restrictions on the movement of goods. Canadian tariff levels on average are roughly twice as high as U.S. tariffs, and effectively keep many U.S. exports out of Canada. Moreover, in the future, when North American companies are deciding where to locate production and jobs, they will no longer have to take tariff hurdles into account.

- The agreement sets out rules and rights for bilateral trade in services. This part of the agreement includes specific provisions for tourism, financial sector services and telecommunications that are very important to my company. The agreement gives us long-term guarantees that our services will continue to get equal treatment and unrestricted access to the Canadian market. The financial services provisions of the agreement remove many Canadian restrictions on foreign ownership of Canadian financial institutions and will allow companies like mine to establish, diversify and expand on the same basis as Canadian financial institutions.

- The agreement reduces barriers to investment, encourages capital flows in both directions, and guarantees U.S. investors against a return to restrictive Canadian policies of the past. Remember, U.S. citizens have more invested in Canada than any other country, and vice versa, so making investment more secure and predictable will be a major benefit to firms on both sides of the border.

- The agreement assures a more open North American market for energy. This has tremendous implications for U.S. energy users and energy security over the long term. Since energy is a major cost factor for U.S. manufacturers, the agreement's energy provisions will bolster the competitiveness of the U.S. manufacturing sector.

- The agreement establishes workable dispute settlement procedures for resolving bilateral disputes relating to the

agreement, and puts in place a follow-up process for negotiating further liberalization. This will make trade practices more transparent and predictable for both countries. It is important to note, however, that the agreement does not change or dilute U.S. trade laws and U.S. companies will continue to have recourse to these laws to counter unfair practices.

- The agreement is compatible with the Automotive Agreement of 1965, which was designed to reduce trade barriers and to improve employment and production in the automobile and related industries account for about one-third of total U.S.-Canada trade.

The significance of this agreement reaches beyond its bilateral scope. It gives a substantial boost to U.S. efforts to strengthen the GATT multilateral trading system. It sends the message that the U.S. and Canada are ready and able to take agressive action toward freer trade worldwide. It gives us considerable experience that will be valuable as we proceed with multilateral negotiations on services, investment, and dispute settlement.

Conversely, U.S. failure to ratify the Free Trade Agreement with Canada could seriously disable U.S. efforts to improve the global trading system and open world markets. It would call into question our ability to move ahead toward a better world trading system -- a chilling message to the rest of the world indeed.

Any agreement as far-reaching as the U.S.-Canada FTA is bound to raise concerns. For the most part, those concerns have been expressions of disappointment that the agreement did

not go farther in some areas -- intellectual property protection, "cultural industries", subsidies, and government procurement are a few examples. In other areas, like agriculture, there is wide recognition that the problems are really global in scope and will require solution through multilateral negotiations. Most of those disappointed with the agreement have nevertheless recognized that this is just a first step toward a longer-term process of even more comprehensive bilateral trade liberalization. In fact, if the agreement is not implemented, the prospects for resolving the remaining problems will be poor indeed.

In addition to the disappointments, there are those who see the debate over the Free Trade Agreement as an opportunity to exercise some additional leverage in what are generally unrelated domestic policy battles. Industries that have suffered as a result of domestic policy measures or that have seen their markets dry up see the FTA as an opportunity to exact some special considerations.

However, none of these considerations should allow us to lose sight of the tremendous benefits of the agreement for the country as a whole. In traveling around the country, particularly in the West, I am struck by the fact that even those with concerns about the effects of the FTA on their own industry, generally agree that the agreement is a positive step and in the long-term best interests of this country. Earlier this week the Western Regional Council, an organization of leading businesses in the western states, including mining companies, power producers, manufacturers and services, voted overwhelmingly to endorse the U.S.-Canada Free Trade Agreement. I think their example is a good one, for even those with sectoral concerns decided that, overall, the FTA was in the best interest of their businesses and the Western region.

91-402 O - 89 - 4

To conclude, it is in the U.S. business interest and U.S. national interest to implement this agreement, and it would be a serious setback for the global economic system and for U.S.-Canada relations if this opportunity is lost. The members of the U.S. Council for International Business, representing a cross-section of the U.S. business community with much at stake in the FTA, urge the members of this Committee and the U.S. Congress to act in the clear national interest to implement the U.S.-Canada Free Trade Agreement expeditiously.

STATEMENT OF THOMAS H. HANNA
MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE UNITED STATES, INC.

Good morning,

I am Thomas H. Hanna, President of the Motor Vehicle Manufacturers Association of the United States* (MVMA) whose members produce 97% of all motor vehicles produced in the United States.

I appreciate the invitation to meet with the Committee today to discuss the proposed U.S.-Canada Free Trade Agreement and, particularly, its impact on the U.S. automotive industry.

No single factor has more directly challenged U.S. motor vehicle manufacturers over the past decade than the internationalization of the domestic automotive market, beginning with the dramatic increase in the sale of imported automobiles in the United States over the past decade, and more recently, with the establishment of new automotive manufacturing plants in North America by subsidiaries of foreign-owned companies. Therefore, trade policy issues are of great interest to MVMA and its companies.

Last October, following two years of serious discussions, negotiators from the United States and Canada reached agreement on the terms of a comprehensive Free Trade Agreement (FTA). The proposed agreement is unprecedented in its scope and detail, providing for the complete removal of tariffs and most quota restrictions. But it also proposes ground-breaking arrangements in such areas as dispute settlement, services and investment.

The automotive industry is a major factor in U.S.-Canadian trade relationships. In 1987, more than $45 billion in automotive products were exchanged between the two nations, representing fully one-third of all U.S.-Canada trade. Obviously, any agreement which proposes to modify the terms of trade between the two countries is a subject to which our member companies give serious attention.

Before reviewing the terms of the FTA and the particular development of the automotive industry in North America, I want to state MVMA's strong belief that this has been an important and worthwhile initiative by our two governments. Given the pressures on the entire international trading system, I think it would have been very unfortunate for two countries with such clear geographic, historic and economic ties to have let this opportunity pass.

MVMA followed the negotiations closely, meeting and advising with U.S. negotiators regularly to discuss and assess the impact of certain proposals

*MVMA members are: Chrysler Corporation; Ford Motor Company; General Motors Corporation; Honda of America Mfg., Inc.; M.A.N. Truck & Bus Corporation; Navistar International Transportation Corp.; PACCAR Inc; and Volvo North America Corporation.

on the automotive industry. After reviewing the automotive terms of the FTA carefully, MVMA has concluded that it is a good and solid agreement for this industry, and one that we believe advances U.S. national interests as well.

In particular, we believe that the automotive provisions of the Free Trade Agreement are a reasonable and fair compromise of each government's objectives and special concerns. It takes on and resolves most of the trouble spots which were beginning to cause problems in the U.S.-Canada auto trade relationship in recent years. For the traditional U.S. vehicle manufacturers, the FTA preserves the status of the 1965 AutoPact and some of the special trade benefits given those companies for the enormous investment in North American plant and equipment which were made in the years that followed. But it also offers the possibility of free trading rights for the new companies establishing plants in North America, provided their products contain sufficient North American content to qualify.

In order to evaluate the automotive provisions of the Free Trade Agreement, it is necessary to understand the development of U.S.-Canada automotive trade over the past two decades.

I. U.S.-Canada Automotive Trade: An Early Trade Success Story

Automotive trade between the United States and Canada offers a striking example of the potential benefits of freer trade between the two nations. It also is a good case study of the sensitivities that are caused by some fundamental differences between the two and some of the problems which arise as a result.

In the early 1960s, the Canadian government was concerned over the condition of its automobile industry. Despite wages some 30 percent less than those in the U.S., the Canadian industry was a higher cost, relatively inefficient producer protected by a 17.5 percent tariff rate. The cause of the Canadian industry's problems were the short and more expensive production runs inherent in manufacturing a full range of vehicle models for such a small internal market.

In an effort to increase Canadian production and generate more automotive trade with the U.S., Canada established a duty remission program in 1962. When a U.S. radiator manufacturer filed suit against this program under U.S. trade law, the two governments entered into negotiations to resolve the dispute. What emerged from these negotiations was the Automotive Products Trade Agreement of 1965, or the AutoPact as it is commonly known.

The Pact provided for duty-free passage of new automobiles, trucks, buses and original equipment parts between the two countries, subject to certain conditions and exceptions. The most important of these were:

— First, that several automotive equipment categories — such as certain specialty vehicles, used vehicles, tires and replacement parts — were excluded from the arrangement.

— Second, Canada privately asked the Canadian subsidiaries of U.S. car and truck manufacturers to make certain investment and production commitments which we now call the Canadian 'safeguards'.

The 'safeguards' required that a company assemble roughly as many cars or trucks in Canada as it sold there and that approximately 60% of the value-added of the vehicles sold must be Canadian. The right to import duty-free into Canada under the AutoPact was made contingent on the companies agreeing to these commitments.

The Canadian government's justification for the 'safeguards' at the time was the fear that with a completely unprotected domestic market, Canada would evolve into a supplier of raw materials and components for the North American industry, while the manufacturing plants and jobs would gradually move to the larger, more lucrative market in the U.S. These fears were compounded by the economic reality that the entire Canadian auto and truck industry consisted of subsidiaries of U.S.-owned corporations.

The United States government did not object to Canada's action at the time, believing these measures to be transitional as the tariff barriers between the two countries' automotive industries were removed. But, in Canada, the 'safeguards' became a permanent feature of the AutoPact.

The current difficulty in dealing objectively with safeguards is that they have become extremely significant in the Canadian national political consciousness, while at the same time their operational impact has become irrelevant. The Canadian subsidiaries of MVMA's member companies, for a variety of historical and economic reasons, now so far exceed these requirements that they have no practical effects on the companies' operations. They do not affect any decisions concerning sourcing, investment, production, or when necessary, plant closings. And because the conditions and numerical goals they set are relics of an earlier economic period when the Canadian industry was quite small and self-contained, they will not affect any such decisions in the future.

When the AutoPact was established, some feared that the merging of the industries in Canada and the United States would cause widespread employment losses in Canada. Instead, employment in the North American automotive industry over the past twenty years has shown gains in both countries. The U.S. share of total North American motor vehicle industry employment has remained relatively steady at about 89% over the

II. The Automotive Provisions of the Free Trade Agreement

Despite entering the negotiations with different objectives concerning the automotive sector, negotiators for the two governments reached an agreement which satisfied the essential goals of each, recommitted the two nations to a bilateral approach in automotive trade, and resolved each of the potential disputes which were developing between the U.S. and Canada over automotive trade policy.

1. The AutoPact

The FTA maintains the status of the 1965 AutoPact as a unique and stable sectoral arrangement between Canada and the United States. MVMA believes that this was a wise decision.

Under the FTA, membership in the AutoPact is limited to current participants, and will not be extended to any new auto or truck company manufacturing in North America. This establishes a permanent standstill in the Pact and relieves U.S. concerns that the Canadian 'safeguards', would be expanded to apply to foreign-owned automotive companies, distorting investment and production decisions.

2. Tariffs

Duties on vehicles produced by companies which are not members of the AutoPact will be phased out over a ten-year period provided these products meet a 'rule of origin' of 50% to qualify for eligibility under the FTA. Remaining duties on tires and aftermarket parts, excluded from the 1965 AutoPact, will also be phased out. As a result, ten years into this agreement, all trade in automobiles, trucks, buses and auto parts will be freely traded. This will apply both to the traditional North American companies operating under the AutoPact and to foreign-owned North American vehicle manufacturers, provided their products meet the 50% rule of origin.

3. Duty Remission Programs

Canada has a long history of employing duty remission and other kinds of incentive programs to generate investment in that country. As noted earlier, a duty remission scheme, offered to stimulate Canadian automotive investment in the 1960s, almost led to a major trade dispute with the United States at that time. Negotiations between the two governments abolished that program and established the AutoPact. The Canadian government began offering another duty remission program in the early 1980s as an investment incentive for Asian and European companies interested in setting up operations in North America.

With overcapacity in North America the most serious concern facing the automotive industry, it made no sense for the Canadian government to attempt to lure more auto investment, particularly when most of the cars would be headed for the U.S. market.

The FTA settles the duty remission issue. One form of remission, which companies earn as a reward for exporting from Canada, will end immediately when the agreement goes into effect. A second form of remission which the Canadian government granted to companies in exchange for specific investment commitments, will be phased out and terminated when each individual agreement expires, but no later than 1996. No further duty remission programs will be granted.

MVMA recognizes that the FTA did not eliminate the whole duty remission program immediately, an action which we supported. However, the negotiators were able to reach a compromise settlement, in which Canada did agree to abandon this unilateral approach to investment creation and to shut the entire program down within an agreed upon period of time. It is a compromise worth accepting and supporting.

4. Duty Drawback

Duty drawback is a program which allows a company to request the government to refund duties paid on imported materials when those materials are reexported from the country. While both the U.S. and Canada maintain a form of duty drawback, U.S. officials were concerned that under a Free Trade Agreement this program would disadvantage the United States. Companies considering new investment, it was thought, could be encouraged to invest in Canada and export most of the production to the United States in order to receive a 'drawback' on duties paid for importing into Canada. The resolution of this issue was the agreement by both countries to eliminate drawback for exports to the other effective January 1, 1989.

5. Rule of Origin

One of the subjects on which there was extensive consultation between MVMA and the U.S. negotiators during the FTA talks was the so-called 'rule of origin'. Basically, the two governments wanted to agree on a content-based rule of origin, which would qualify a product as American or Canadian under the FTA. At first, the negotiators wanted a single rule for all products, and proposed that 35% be the appropriate level, the standard now applying in the U.S.-Israeli Free Trade Agreement and the Caribbean Basin Initiative. MVMA advised U.S. officials that 35% was too low for the

automotive sector. Given high labor and other operating costs in North America, our members agreed that 35% did not cover enough of the vehicle manufacturing process.

MVMA recommended to our negotiators that 50% be adopted for the automotive sector, and 50% was the figure both governments finally agreed to. In addition, the formula by which the figure is calculated was tightened to make the standard even tougher than it had been under the AutoPact. The new rule of origin reflected a true cost of manufacturing so that a company could not add in advertising, profit, sales incentives and other incidental charges to artificially raise the content figures.

Some in the industry felt that a better number would have been 60%. Under the right conditions, MVMA would probably have supported a 60% figure. I understand that the U.S. government repeatedly proposed a 60% rule for automotive products, but the Canadian government did not accept this proposal and, as a result, the FTA contains a rule of origin of 50% for automotive products.

While many were dismayed that the Canadian government did not show more interest in a 60% standard, MVMA believes the 50% rule of origin will do the job it was designed to do and that is to ensure that the benefits of the agreement accrue to those companies and products which can reasonably and fairly be considered as Canadian or American in origin.

6. Used Vehicles

The Canadian embargo on the importation of used vehicles will be phased out. This will give manufacturers more flexibility to respond to shifts in supply and demand on both sides of the border for used vehicles, shifts which affect the supply and demand for new vehicles as well.

7. Automotive Panel

The agreement establishes a select panel on automotive trade and production in the U.S. and Canada. The stated purpose of the panel is to "assess the state of the North American industry and to propose public policy measures and private initiatives to improve the competitiveness in domestic and foreign markets".

This could be construed as a simple gesture to a politically sensitive sector. But it could also signal the serious reaffirmation of both governments to work cooperatively to compete in a very tough global trading market. Given the proper charter and membership, I think there is a very constructive role for such a panel to play.

III. Conclusion

MVMA and its member companies have been concerned for some time now that, without a resolution between the two countries on ways to deal with the growing competition and vehicle production overcapacity in North America, the natural competitive instinct of each government to protect its share of automotive production and employment could create some very serious trade problems. The Free Trade Agreement will not solve the serious overcapacity problem which is facing the industry, nor will it guarantee the continued competitiveness of the vehicle manufacturing industry in North America against relentless pressures from a growing number of auto exporting nations.

But MVMA believes the Free Trade Agreement is one that looks to the future, that confirms the significance of each country to the other as major trading partners, and that gives the North American vehicle manufacturing industry another helpful boost in the competitive global trading system.

In particular, we believe that the automotive provisions are a reasonable and fair settlement of the objectives and special concerns of each government. They remove most of the trade irritants and potential distortions in the automotive sector and create the basis for a free and open trading system in motor vehicles and components for both the traditional North American manufacturers represented in the Auto-Pact, and for the newer companies operating plants in both countries.

For these reasons we urge the Congress to pass the Free Trade Agreement and its separate implementing legislation when they are submitted by the Administration.

PREPARED STATEMENT OF LINDA J. HOFFMAN

Mr. Chairman and Members of the Committee:

I am Linda Hoffman, Vice President of Government Affairs and Trade for the Automotive Parts and Accessories Association (APAA).

Mr. Chairman, APAA is here today because we believe the FTA is neither a bilateral nor free trade agreement with respect to auto parts. Moreover, we want to ask this committee and other Members of Congress to help push for the renegotiation of those trade distorting Canadian practices that APAA strongly believes should be eliminated.

As staunch supporters of the free trade concept, APAA gave U.S. negotiators one basic objective for the FTA talks: rid the North American automotive market of sales and investment distorting practices.

But what the Administration accepted is a lopsided agreement that sanctions longstanding Canadian protectionism and unfairly favors Canadian parts and car production at the expense of U.S. manufacturing and jobs.

Let me review our four key concerns:

1) We fought to remove the local content and production rules that Canadian auto assemblers must meet to qualify as Auto Pact members. The membership rules for this powerful club require Pact manufacturers to produce one car in Canada for each car sold there and to create 60¢ worth of Canadian cars and parts for each dollar's worth of vehicles sold there. In return, club members are afforded duty-free import of cars and parts from anywhere in the world.

Despite its free trade banner, the FTA would codify these protectionist and one-sided rules, long opposed by our government. It would guarantee a commitment to Canadian vehicle production and safeguard the North American market for Canadian-built parts at American firms' expense.

2) We wanted Canada to end the multilateral sourcing privilege and to implement the Auto Pact, as the U.S. does, on a bilateral basis, with only U.S. and Canadian firms enjoying the preference. As it stands, Canadian parts makers would continue to get preferred treatment here, while U.S. exports would end up sharing the benefit of duty-free access with third country competitors.

While 'grandfathering' in current Auto Pact participants, largely the Big Three, the proposal would slam the clubhouse doors shut on Japanese and other foreign-owned transplants in Canada.

The good news is that these companies would not be eligible for duty-free car and part imports. And, that is as it should be. The bad news is that the proposal puts no curbs on multilateral sourcing by the Big Three, which hit $2.3 billion last year.

By combining the Canadian content rules and the duty-free ride accorded other countries' suppliers, it is possible to envision cars built in Canada without a dime's worth of U.S. content.

3) APAA also objects to the FTA's treatment of non-Auto Pact companies. While barring them from Auto Pact membership and sourcing privileges, the FTA would allow Canada to continue through 1995 its secret contracts with these foreign-based auto makers. Each deal cuts the car company's duty payments in exchange for the auto maker's commitment to Canadian car assembly and greater use of Canadian content.

Speculation is that these GATT-illegal contracts have benefits equivalent to Pact membership, but we are not sure, because U.S.

negotiators agreed to their continuation without ever seeing them. The bottom line, Mr. Chairman, is that Canada ensures that non-Pact members who cannot escape the duty nevertheless would enjoy the fruits of this trade distorting duty rebate program for as many as seven more years.

4) Despite the fact that there is a growing overcapacity of car and parts production in North America, the FTA is silent on the crucial matter of Canada's substantial investment subsidies. Canada already sells itself to foreign suppliers as the ideal base for launching parts duty-free into the huge U.S. market. By allowing Canada to add investment subsidies to their auto policy quiver, we may as well draw a target over America. Japanese, Korean and other foreign-owned supplier migrants lured there will gain a distinct competitive advantage in Canada's back door to the vast U.S. market.

To summarize, we have a proposed accord that is neither bilateral nor fair in its treatment of fully one-third of U.S. trade with Canada.

The future of American suppliers in the North American market depends on our success in building reciprocal free trade between Canada and the U.S. And, our industry's place in the global auto industry also hinges on our ability to rid North America of protectionism. Failure to dismantle Canadian barriers would make it hard for the U.S. to press other countries to remove similar barriers to American auto parts exports. But, we believe that success will benefit U.S. and Canadian parts makers alike.

Mr. Chairman, we ask this Committee to help direct our negotiators back to the table to renegotiate the key issues we have discussed, with the goal of genuinely free, bilateral automotive trade.

STATEMENT OF ROBERT L. McNEILL, EXECUTIVE VICE CHAIRMAN,
EMERGENCY COMMITTEE FOR AMERICAN TRADE, BEFORE THE
SENATE FINANCE COMMITTEE
HEARING ON
THE U.S./CANADA FREE TRADE AGREEMENT

APRIL 21, 1988

Mr. Chairman and members of the Finance Committee, thank you for this opportunity to express the support of the Emergency Committee for American Trade (ECAT) for the United States-Canada Free Trade Agreement. Our members have examined the Agreement and generally applaud its terms. Considering the time constraints of the historic negotiation of the Agreement, we are amazed at its scope and its detail. We express our appreciation and gratitude to the U.S. and Canadian negotiators for their good work and to you and your colleagues, Mr. Chairman, for the expeditious manner in which you are approaching the legislation that will be necessary to implement the U.S. obligations undertaken in the Agreement.

I was privileged to have been a senior member of the U.S. team that negotiated the U.S. Canada Auto Pact back in 1964-65. Following that momentous trade agreement with Canada, we solicited the views of other U.S. industrial sectors to see whether there was interest in similar free trade initiatives with Canada. There were none. Nor was there any evident interest in Canada for such initiatives. As a matter of fact, both the U.S. and Canadian business communities at that time viewed free trade between the two countries as something to be abhorred. The preponderant Canadian view was that the relatively inefficient -- as compared to the United States -- Canadian industrial machine would be overwhelmed by open competition with the United States. The preponderant U.S. view was relative indifference, although there was concern that some U.S. direct investments in Canada might become uneconomic if the high Canadian tariffs that often led to the investments were to be eliminated.

Much has happened since the U.S.-Canada Auto Pact. First there was the successful conclusion in 1967 of the Kennedy-Round of GATT negotiations that resulted in an average reduction of 35 percent in the tariff levels of the participating industrial nations. Tariffs were further reduced a decade later in the Tokyo Round of GATT negotiations. Also, experience under the Auto Pact dramatically demonstrated that given access to a broader market, Canadian producers could be world-class competitors.

Despite the tariff liberalization just noted and the experience under the Auto Pact, there remained and remains a strong feeling among many in Canada that open competition with the United States is too great a risk for many Canadian industries to undertake because their competitive efficiencies, based on production runs for a market one-tenth the size of the U.S. market, are far less than those of their U.S. competitors. Open competition with the United States, therefore, would in the judgment of those holding this view be most injurious to Canadian economic interests.

As is currently most apparent, this feeling is particularly strong in the Canadian provinces of Ontario and, to a lesser extent, Quebec where the bulk of Canadian manufacture is located. The western Canadian Provinces on the other hand have historically tended to favor more open trade with the United States where they often could purchase more cheaply than from their fellow citizens in Eastern Canada and where they have huge markets for their resource-based industries.

Bearing these considerations in mind together with a history in Canada of fearing the economic colossus to its south, the U.S.-Canada Free Trade Agreement is a remarkable achievement. Other than geographic expanse, Canada is a country about one-tenth the size of the United States as measured by population and economic output. It is a country whose manufacturing base has been established behind high tariffs and other measures of economic protection from the United States.

Canada is also a country that just like the United States and others is being swept by modern technology into a global economy in which economic isolation is technically hardly possible. Economic isolation in today's world is a prescription for relative poverty. To progress in today's world economy requires relatively free access to global resources and markets. In this respect, the size and scope of the U.S. market provides the United States with an enormous comparative advantage over most others, and particularly over Canada.

Many Canadians in positions of authority recognize that Canada's best prospect for surviving and prospering in an increasingly competitive world is to secure relatively free access to the U.S. market in order to gain the productive efficiencies of scale available to its U.S. and other world competitors. Thus the Free Trade Agreement with the United States. For Canada with its small population and productive capacities relative to those of the United States, the risks and prospects of economic adjustments would appear considerably greater than those for the United States. But for exactly the same reasons, the prospects for economic success are also great

The U.S. Canada Free Trade Agreement is not without risks for some U.S. producers as this Committee is hearing and will hear. One can only sympathize with their concerns and hope that their fears will not be realized.

There are a number of members of ECAT who have concerns with parts of the Agreement. But in no case are we aware that any of these concerns are sufficient to cause any of our members to want to oppose the Agreement. On balance, ECAT members strongly support the Agreement and urge the Congress in cooperation with the Administration to pass the necessary implementing legislation during its current session. We have in hand the negotiated instrument that will advance U.S. and Canadian economic interests and that will advance the already sound political relationship between the two countries. It would be tragic were the Agreement to fail.

Before concluding our brief statement, we would like to express the hope that the effort to bind the U.S. and Canadian economies more closely together will not stop once the Agreement is implemented. We hope that the Agreement can be built upon to improve several of the Agreement's features and to add to it new provisions.

In noting this hope, we have in mind, for example, that the Agreement does not include provisions for the protection of intellectual property rights. Although aside from the Agreement, the Canadians did approve beneficial legislation improving the protection of patent rights in Canada, the legislation itself falls short. ECAT would like to see future negotiations with Canada to add highly desired intellectual property rights provisions to the Agreement.

We would also like to see provisions added concerning certain so-called cultural industries, particularly provisions concerning the print media. Additionally, we would like to see provisions concerning the sale of U.S. beer in Canada.

We welcome the foreign investment provisions of the Agreement. They go a long way toward assuring that current Canadian investment policies will be maintained and in several vital respects substantially improved upon. However, there are objectionable Canadian restrictions on foreign investment that are "grandfathered" in the Agreement. While other restrictions are liberalized, some will still be restrictive of direct investments in Canada. An illustration of the latter is the maintenance of Canadian screening of proposed acquisitions of Canadian firms with a value of $150 million (expressed in Canadian dollars) or more. While this compares very favorably with the current screening floor of $5 million, it will still mean that a large number of prospective U.S. direct investments will remain subject to screening. ECAT would hope that after a period of digestion of the new investment regime in Canada, there will be negotiations to improve on this and other provisions concerning foreign investment.

ECAT also welcomes the Agreement's provisions concerning the 1965 Auto Pact. We would hope that future improvements in the rule-of-origin provisions can be worked out. The rule-of-origin requirement for bilateral trade in autos in the Agreement is that in order to qualify for free trade treatment the product must contain at least 50 percent U.S.-Canadian content. Many in the auto industry would prefer a 60 percent rule-of-origin in order to avoid auto products from third countries taking advantage of the Agreement, and we would hope that future negotiators could work toward this end.

Mr. Chairman, these brief comments on intellectual property, investment, and rule-of-origin are in no way intended to qualify our support for the U.S. Canada Free Trade Agreement. They are intended as statements of direction that ECAT would recommend for future improvements of the Agreement. As earlier stated, we find the Agreement eminently supportable, and we strongly recommend your approval of it.

PREPARED STATEMENT OF ROBERT J. MUTH

I. Introduction

Mr. Chairman, I am Robert J. Muth, Vice President of ASARCO Incorporated and President of the Non-Ferrous Metals Producers Committee (NFMPC), a trade association of U.S. producers of primary copper, lead, and zinc. These firms are also producers of zinc oxide, cadmium, and sulfuric acid. The member companies are:

ASARCO Incorporated
180 Maiden Lane
New York, New York 10038

Doe Run Company
11885 Lackland Road
St. Louis, Missouri 63146

Phelps Dodge Corporation
2600 North Central Avenue
Phoenix, Arizona 85004

These firms have mining, smelting, and refining facilities in Arizona, Colorado, Idaho, Illinois, Missouri, Montana, Nebraska, New Mexico, Tennessee, and Texas. The concerns expressed by the NFMPC are in fact shared by a number of other companies that are not members of our organization.

The Canada Agreement in its current form is seriously deficient because it fails to address the problem of Canadian government subsidy practices, it weakens U.S. trade laws by eliminating judicial review regarding important unfair trade practices, and it, nevertheless, eliminates the modest U.S. tariffs on imports of non-ferrous metals from Canada. (See tariff listing in Appendix A.) We believe, however, that through inclusion in the Agreement's implementing legislation of certain provisions including one in the context of a Section 301 investigation which provides a strong incentive for the Canadian Government to negotiate seriously on the subsidy issue, it is possible to limit the damaging effects of the Agreement.

II. The Competitiveness and Strength of the U.S. Non-Ferrous Metals Industry

The U.S. non-ferrous metals mining and processing industry is a strong and competitive industry, with average costs that are fully competitive with average costs of production worldwide.

This competitive condition is the result of a dramatic effort to cut costs, improve productivity, restructure assets, and rationalize production in the U.S. industry. There is little evidence to support the notion that Canada enjoys a lower cost and more competitive long-term position than does the United States. At ASARCO, for example, we have succeeded in reducing our domestic cost of producing copper from more than 90 cents per pound in the early 1980's to a full cost of less than 58 cents per pound of production from mine to market today. Similar progress in cost reduction has been achieved in the company's lead operations, at our zinc mine production in eastern Tennessee, and in our silver-lead-zinc mining operations in Idaho. This is a pattern that has been typical throughout the mining and minerals processing industry in the United States. Moreover, contrary to what is often regarded as conventional wisdom, the United States is endowed with a strong mineral reserve base.

III. The Existence and Importance of Canadian Federal and Provincial Government Subsidies

We believe in free trade shaped by international market forces. The U.S. non-ferrous metals industry enjoys precious little in the way of protection or government support. We would be vastly better off competing in a world free of trade restrictions and government subsidies. That, however, is not what this Agreement creates for our industry. Canada has major federal and provincial government subsidies for its non-ferrous metals industries. Yet this Agreement is entirely silent concerning them; there is no provision in the Canadian Agreement for their elimination or reduction. In effect, the Agreement tacitly endorses these blatant subsidy practices and encourages their continuation. Early in the negotiations, we had been assured by the Administration that it viewed the Canadian subsidies to the non-ferrous metals industry as incompatible with a free trade area. We are dismayed that at the last minute, other considerations dictated the outcome. We were heartened,

however, by the March 1 letter to Ambassador Yeutter sent by 22 members of the Senate, including members of the Finance Committee, similarly expressing concern that the subsidy issue had not been addressed.

We believe that there is no dispute about the existence of these Canadian Government practices, regardless of whether one recognizes them as "subsidies" or, as the Canadians prefer, terms them "incentives." They have the effect of permitting the Canadian non-ferrous metals producers to achieve competitive objectives which they simply could not achieve in the absence of such assistance. For example, Canadian Trade Minister Pat Carney stated in November 1985 at the signing of a major financing agreement for building a new lead smelter for Cominco, Ltd. at Trail, British Columbia: "Without federal assistance, this $270 million modernization project would not proceed and the old lead smelter at Trail would be in danger of being shut down." (Press release, November 8, 1985) The Minister's press release also stated: "Cominco must undertake a major modernization in order to remain competitive in the international market." As to the financing arrangement, which is unique in tieing Cominco's repayments to favorable metal prices, the press release notes concerning the financing that "the package would be structured in such a way as to reduce the company's downside risk...." Attached to my testimony is a description of this and certain of the other more prominent subsidy practices (Appendix B).

An additional reason that we placed importance on the Agreement providing for elimination of subsidies in that the U.S. countervailing duty law is at best a partial solution to the problems posed by Canadian subsidies. First of all, as is common with capital intensive industries such as ours, there can be a very long time between the provision of government financing for a large capital project (such as the construction of a major new smelter, like the Cominco lead smelter at Trail, British Columbia) and the time when that project first produces metal for

export to the United States. We first became aware of the subsidies for the Trail smelter in 1985, yet that smelter is not scheduled to begin production until 1989. The countervailing duty law do not provide a fully effective means of challenging these subsidies until after the subsidized facilities have been built and put into operation. A subsidy provision in the Free Trade Agreement, however, could have helped to curtail such practices.

Further to the utility of the CVD law, because certain factors particular to a mineral commodity industry such as ours, Canadian subsidies can result in real harm to the U.S. industry quite literally without Canadian metal ever crossing our borders. First, during the down phase of a commodity's price cycle, such subsidies lower the cost structure of the Canadian producers permitting them to stay in operation at times non-subsidized firms must curtail operations and lay-off workers. The subsidized companies can continue producing and building up an inventory overhang which only serve to deepen the price swings and extend the closures and lay-offs in the United States.

Furthermore, contrary to the myth of unlimited Canadian mineral wealth, Canadian copper and lead smelters must complete vigorously on the international market for access for mine concentrate feed for their operations. U.S. producers such as ASARCO likewise compete for these concentrates including those produced at U.S. mines. An effect of the Canadian Government subsidies is to make it easier for Canadian smelters to out bid U.S. smelters for such concentrates and, effectively, to preempt U.S. metal production.

IV. <u>The Binational Dispute Resolution Panel: Weakening U.S. Relief Against Subsidized Imports</u>

The Agreement's dispute settlement provisions abolishing judicial review regarding unfair trade practices also cause us great concern. Without judicial review, this Congress has no certain means for assuring the fair and impartial enforcement of the trade laws as created by Congress. In addition, so far as we

are aware, the Agreement fails to establish standards and procedures for the operation of the binational panel which is to replace judicial review. Attached to my testimony is a brief statement suggesting ways to meet this need for such standards and procedures (Appendix C).

V. Negotiation of New Rules on Unfair Pricing and Government Subsidization

The Agreement provides for up to seven years of negotiations with Canada on the development of new rules on unfair pricing and government subsidization practices such as these. However, in light of both (1) the U.S. inability to achieve subsidy elimination in the recently-concluded negotiations when the Canadians presumably had much to lose as well as (2) the Canadians stated intention of continuing their "incentive" programs unimpeded, we cannot but be skeptical about the probable outcome of these negotiations.

VI. The Canadian Agreement as a Precedent for the Uruguay Round Trade Negotiations and Other Bilateral Agreements

The Administration has proclaimed the Canada Agreement an excellent model for emulation in the Uruguay Round trade negotiations and for other bilateral agreements. Yet in spite of the acknowledged U.S. goal of removing subsidy practices from the global trading system, the Canada Agreement clearly sends the wrong message to our other trading partners. If, in the negotiation of an Agreement with our most important trading partner, the United States fails to achieve the slightest concession on Canadian industrial subsidies, how can we expect the Uruguay Round participants to take seriously our calls for discipline on their subsidies?

VII. Proposal for Implementing Legislation Provisions Addressing Canadian Subsidy Practices

Over the past five years, the U.S. non-ferrous metals industry has gone through a grueling restructuring to reduce costs and increase efficiency to achieve true international competitiveness. Key to the success of this effort have been the sacrifices of our workers and management alike in lost jobs and

reduced pay and benefits. How can we now ask these workers to compete against a Canadian industry which is fundamentally no more competitive than ours but stronger solely because of government support?

We believe that the Agreement's implementing legislation should contain strong incentives for the elimination of the subsidies. We have proposed to the Administration and to certain members of Congress certain provisions for the monitoring of Canadian Government subsidy practices for this industry, for a U.S. industry-initiated Section 301 investigation of such subsidies, for mandatory negotiation for the elimination or offset of subsidy violations, and, if such negotiations should fail, for the mandatory imposition of retaliatory measures against imports of Canadian copper, lead, and zinc. The provisions would also prevent the acceleration of the tariff phase-down for these products and for the alteration of the country of origin rules. Attached to my testimony is a brief statement of the NFMPC's legislative proposal (Appendix D).

The NFMPC's proposal would have the following key benefits: The monitoring provision would ensure that both Congress and the Executive Branch would be kept fully aware of the nature and extent of the Canadian Government programs to aid the Canadian non-ferrous metals industry. The monitoring is needed because the Canadian non-ferrous metals industry has shown a distinct disinclination to let the U.S. industry know the details about the government assistance that the Canadian industry is receiving. We also propose that the Executive Branch report annually to this Committee and to the House Ways & Means Committee.

The NFMPC's provision for directly addressing these subsidies makes use of the powers of the Executive Branch under Section 301 of the Trade Act of 1974 to address foreign practices which violate trade agreements or burden U.S. commerce. The NFMPC proposal adds three elements which are crucial in making

Section 301 effective in confronting such subsidies. The first element is that initiating of a Section 301 investigation by USTR would be made mandatory upon the request of a U.S. producer of copper, lead, or zinc. During the ten-year term of the Canada Agreement, it is uncertain at best whether the Executive Branch would initiate any Section 301 investigation against Canada. Requiring in this way the initiation of an investigation would both restore credibility to the deterrence potential of Section 301 vis-a-vis future Canadian subsidies as well as insulate the Executive Branch from political or other policy-related pressures which might prevent it from confronting these Canadian practices.

The proposal also provides that if negotiations with Canada fail to result in either the elimination or off-set of the subsidies, the President shall impose retaliatory measures. The mandatory retaliation provision is founded on the need to give the Canadian Government an incentive to negotiate seriously about eliminating subsidies. Its behavior during the Canada Agreement negotiations clearly demonstrates that it strongly wishes to pursue its subsidy programs unhindered. A recent Canadian Government study admits as much. In the wake of failed negotiations without a mandatory retaliation provision, the Executive Branch might well feel constrained by political and foreign policy factors to let the matter drop without any meaningful response.

The third key element in the NFMPC proposal is the requirement that if the negotiations fail, U.S. retaliation would be against U.S. imports of Canadian copper, lead, and zinc. There are two main reasons for this provision. First, from the NFMPC's earliest consultations with USTR prior to the Canada Agreement negotiations, the NFMPC had been assured that the U.S. tariffs on its products would not be eliminated without provision for addressing the Canadian subsidy practices. The Agreement clearly results in the phased elimination of the U.S. tariffs, but it holds no meaningful prospect for the elimination of the

Canadian subsidies. In addition, there is significant reason to fear that Canada might be intransigent in clinging to its subsidies for the Canadian non-ferrous metals industry. Such subsidies are important both in Canadian federal-provincial relations and in ensuring the competitive future of Canadian firms vis-a-vis U.S. non-ferrous producers. Therefore, any retaliation under Section 301 might be in place for some time and should, therefore, be designed to insulate the U.S. non-ferrous metals industry from their effects.

The NFMPC's proposal also provides that the Executive Branch not be permitted to accelerate the phase down of the copper, lead, and zinc tariffs or to alter the country of origin rules for these products without Congressional approval.

VIII. Conclusion

The Canada Agreement does not address the Canadian subsidy practices which are so clearly in conflict with the Agreement's avowed purpose of establishing a truly "free" trade area. Such practices pose a real danger to the U.S. non-ferrous metals industry. The NFMPC is proposing provisions for the Agreement's implementing legislation which will permit the United States to engage the Canadian Government in meaningful negotiations to achieve the elimination or off-set of these subsidy practices.

APPENDIX A

U.S. Tariffs on Primary Non-Ferrous Metals and Related Products

	1988 Import Tariff
Primary Copper	
Refined Copper, TSUSA 612.0640 (H*7403.11.00)	1% ad val.
Continuous cast rod, TSUSA 612.7260 (H*7408.11.60)	4% ad val.
Primary Lead	
Unwrought lead other than lead bullion, TSUSA 624.0350 (H*7801.10.0000)	Temporary duty of 3% ad val. on the value of the lead content, but not less than 1.0625¢ per lb. on the lead content. Permanent duty of 3.5% ad val.
Primary Zinc	
Unwrought zinc other than alloys of zinc, TSUSA 626.0200 (H*2620.11.0000)	1.5% ad val.
Related Products	
Zinc Oxide, TSUSA 473.7600 (H*2817.00.000,) and TSUSA 473.7800 (H*3206.49.3000)	Dry: Free. Other: 1.3% ad val.
Cadmium, TSUSA 632.1440 (H* 8107.10.0000)	Free
Sulfuric acid, TSUSA 416.3500 (H* 2807.00.000)	Free

* Harmonized System Classification Number.

APPENDIX B

CANADIAN FEDERAL AND PROVINCIAL SUBSIDIES TO CANADIAN COPPER, LEAD, AND ZINC PRODUCERS

A. Cominco Ltd.'s Lead Smelter at Trail, British Columbia

According to information provided by USTR, the Canadian federal government and the British Columbia provincial government have made available to Cominco Ltd., a Canadian metals producer, C$134 million for the complete modernization of its lead smelter in Trail, British Columbia, largely to process ores from the Red Dog Mine in Alaska. Under the arrangement, the Canadian government has essentially assumed the major risks associated with the modernization, particularly the risk of metal price fluctuations. For example, if metal prices should be below a certain threshold, the assistance takes the form of a grant and requires no repayment whatsoever. The Government press release announcing the financing package states: "The package would be structured in such a way as to reduce the company's downside risk...." (November 8, 1985) Canadian Trade Minister Pat Carney stated at that time: "Without federal assistance, this $270 million moderization project would not proceed and the old lead smelter at Trail would be in danger of being shut down." The NFMPC understands that even at the current relatively high metal prices, no repayment is required. Assuming grant treatment, the assistance could have a subsidy effect of nearly 5 cents or more per pound of lead produced depending on the level of production attained. A subsidy of nearly 5 cents per pound is equivalent to 13 percent of the 1987 average price of 36 cents per pound (Metals Week).*

There currently is an oversupply of lead smelting capacity in the world. In the U.S. alone, several smelting operations have been shut down for lack of raw material to process. Yet, by stepping in to bear a major portion of the cost and risk of building a new, state-of-the-art "QSL" smelting and refining plant in British Columbia, the Canadian government is in effect attempting to ensure that otherwise uncompetitive Canadian smelting and refining capacity will survive. Ultimately, the Trail smelter will begin processing concentrate from the Red Dog mine in northwestern Alaska, which could have been smelted in a U.S. facility.

B. Noranda Ltd.'s Copper Smelter at Rouyn, Quebec

In the Canadian acid raid program, an additional C$300 million in Canadian federal and provincial funds have been made available for smelter pollution control and moder-

---

* As a commodity product, the price of lead metal fluctuates. During recent peak price months, the subsidy represented 11 percent of the 42 cents per pound price, but during the cyclical low of 18 cents per pound in 1986, the subsidy was the equivalent of 24 percent.

nization.* Of this sum, C$84 million has already been allotted for the Noranda copper smelter at Rouyn, Quebec. The Rouyn assistance represents two-thirds of the cost of plant moderization and a moderate degree of pollution control. The output from this smelter, as indeed from all Canadian smelters, is to be directed at the export market and, importantly, at the U.S. market. The Hudson Bay Mining & Smelting zinc facility located at Flin Flon, Manitoba, is also eligible for this assistance, as are other smelters.

Although the complete terms of repayment for the Noranda assistance have not been made public, it has been reported that (1) the interest rate being paid is 1-2 percent below what Noranda would have paid on a corporate loan in the market, (2) a portion of the repayments due in a year can be deferred if copper prices fall below a certain level, and (3) at least some repayment will be forgiven if the funds are reinvested in certain facets of the facility. Clearly, U.S. smelters have never enjoyed pollution control financing which is nearly so concessionary.**

C. Cyprus Anvil Zinc Mine at Faro, Yukon

The Yukon Government provided an 85 percent guarantee of C$15 million in financing for the reopening in 1985 of the Cyprus Anvil zinc mine, located in Faro, Yukon. The Canadian federal government in turn re-guaranteed 90 percent of the provincial guarantee. U.S. government contacts with the Canadian government indicate that an additional C$10 million package of benefits including grants, a second mortgage, and government purchase of certain properties have been provided. The Cyprus Anvil mine, which reportedly could supply 3 percent of world zinc production, had been closed by Dome Mines, its previous owner, in mid-1982 because of high costs and declining zinc prices. In 1985, Curragh Resources purchased the property and, with the help of government assistance has reopened it.

D. Possible Future Subsidies

There is no indication that the Canadian government intends to moderate its subsidy practices. Indeed, the Canadian Government is currently touting the Agreement as placing no restrictions on their continuation. A possible future subsidy of concern to the U.S. industry involves Noranda's Gaspe copper mine at Murdockville, Quebec, which was closed in April 1987 because of a fire. Noranda is reportedly seeking a C$20 million interest-free loan from the Quebec government for the rehabilitation of the mine which supplies feed to Noranda's Gaspe smelter. According to recent press reports, discussions have been put off until July 1988 for reasons that have not been stated. Press reports also suggest that the antiquated Hudson Bay Mining and Smelting Co., Ltd. copper smelter at Flin Flon, Manitoba is another possible candidate for governmental assistance.

---

* The Canadian federal government has provided C$150 million which is being matched by C$150 million from the provinces. See Environment Canada, Taking Action Against Acid Rain, March 1986, section "3. Provide $150 million for Emission Control at Smelters," p.4.

** Although U.S. smelters try to recoup some of the cost of pollution control by selling the captured sulfur in the form of sulfuric acid, their efforts will be increasingly thwarted by Canadian sulfuric acid exported to the United States from Canadian pollution control-related acid plants financed with Canadian Federal and Provincial Government assistance.

APPENDIX C

CRITICAL ISSUES ON THE ANTIDUMPING AND COUNTERVAILING DUTY BINATIONAL REVIEW PANEL IN THE CANADA-U.S. FREE TRADE AGREEMENT

The failure of the Canada-U.S. Free Trade Agreement ("FTA") to establish certain standards and procedures for antidumping and countervailing duty binational panel review is a critical defect in the agreement. Unless these standards and procedures are established in U.S. and Canadian law, the panel cannot serve as an effective and fair replacement for judicial review currently available to U.S. companies. Congress can ensure that there are appropriate standards and procedures by making its enactment of U.S. implementing legislation contingent upon its approval of commitments made by the Government of Canada in the exchange of letters and rules of procedure required under Chapter 19 of the FTA.

Chapter 19 of the FTA provides that binational panel review replace judicial review of Canadian and U.S. antidumping and countervailing duty determinations. Panels are to be established on an ad hoc basis to review specific antidumping and countervailing duty determinations. The members of the panels are normally to be selected from a roster of 50 persons developed by the two countries. While Chapter 19 of the FTA establishes the framework for a judicial-type proceeding, it fails to address or inadequately addresses the most crucial elements necessary to provide for fair and impartial review. These elements include: (1) the designation of an impartial person(s) from each country to select the roster of individuals to serve as panelists; (2) criteria for disqualifying individuals from the roster; (3) meaningful consultations by one government on the other government's roster selection; (4) criteria for disqualifying individuals from serving on a particular panel and minimum standards for the Code of Conduct; and (5) a role for private industry in peremptory and extraordinary challenges of panelists and panels.

It is imperative that each of these issues be appropriately resolved in the implementing legislation and the documents that Chapter 19 requires the two countries to develop jointly. Since several of these issues are interrelated, appropriate resolution of one issue may depend on the other. Moreover, it is essential that these issues be addressed in such a manner as to bind Canada. Otherwise, if the U.S. legislation imposes standards of impartiality on panel members selected by the U.S. Government, but the Canadian Government is free to politicize panel review through the selection process, the result would be a process heavily biased in favor of Canadian interests.

1. Selection of the Roster

Chapter 19 of the FTA is silent on the issue of who in Canada and the U.S. is to select the twenty-five individuals from each country to serve on the roster. This issue is crucial: Unless the persons responsible for roster selection are inclined to choose an impartial and balanced group of individuals to serve on the roster, the integrity of the panel review process would be undermined.

There are two possible methods of selection that could improve the prospects for a fair and impartial binational review process. The greatest impartiality could be achieved by designating the Chief Judge of the Court of Appeals for the Federal

Circuit as the person responsible for selection in the United States with his counterpart selecting those individuals from Canada. The judges would be capable of naming candidates "with good character, high standing and repute" who have "general familiarity with international trade law," as Chapter 19 of the FTA provides. Further, this would prevent a politicization of the panel review, a possibility if the Administration were totally free to choose the roster.

Another approach would be to allow the Administration to select the roster, subject to advice and consent of the Senate. The Senate thus can act as a check on the Administration to the extent that it selects a roster of panelists who have strong Canadian affiliations or whose backgrounds indicate that their key objective would be to minimize trade friction with Canada rather than to make a determination on the legal merits of the case. Further, the prospect of Senate advice and consent is more likely to produce an initial list of more objective candidates.

As mentioned above, in order to achieve these goals, both the U.S. and Canada should use similar means of selecting the individuals. Congress could ensure that a comparable method of roster selection is used in Canada by directing the Administration to obtain a commitment on this issue from the Government of Canada.

2. Disqualification From the Roster

A closely related issue is whether certain individuals should be ineligible to be named to the roster because of a particular affiliation, position or background. Annex 1901.2 of the FTA provides that "candidates shall not be affiliated with either Party," and "in no event shall take instructions from either Party." We submit that those affiliated with either party includes any person holding political office or running for political office. Such individuals would be the most susceptible to political pressures and would be the least likely to be impartial panelists. Other candidates who should be deemed affiliated and therefore disqualified from the roster are those persons who have directly represented the governments of Canada or the United States in trade-related matters. Congress could require the Administration to seek a specific commitment from the Government of Canada on this issue or include it in the Code of Conduct.

3. Consultations on the Roster

Under the terms of the FTA, each country's candidates for the roster are to be developed in consultation with the other country. To preserve the impartiality of the selection, this consultation process must be meaningful. Each candidate should be required to disclose to both governments current and past affiliations and financial interests. We submit that Congress should require the Administration to review the disclosure forms for each of the individuals selected by the Government of Canada to determine whether any candidate should be disqualified based on the standards set forth in Annex 1901.2(1) of the FTA, as interpreted by U.S. implementing legislation. Congress should further require the Administration to meet prior to finalization of the roster and discuss with the Government of Canada any candidates who do not meet these standards.

4. Disqualification From a Panel and Related Code of Conduct

Chapter 19 of the FTA does not provide any standards or criteria for disqualification for service on a particular panel.

The FTA itself simply provides that the two governments exchange letters establishing a Code of Conduct by the time the FTA enters into effect. In order to assess whether the FTA provides for a fair review process, Congress must review the Code of Conduct governing panels prior to enactment of its own legislation to establish that certain basic standards will be met.

The Code of Conduct should include a minimum provision for disqualification of certain persons from a panel proceeding. The minimum standards must include disqualification of any panelist whose impartiality might reasonably be questioned because of his or his spouse's or his dependents' financial interest in the companies subject to review, a personal bias or prejudice concerning a party in a case, present or past involvement in the industry under investigation (e.g., manufacturers, labor union, wholesalers or importers) or specific involvement in the particular legal questions which are at issue. In addition, basic procedures, including the filing of disclosure forms with the secretariat established under Chapter 19, should be established to assure that the Code of Conduct is rigorously followed by the parties.

5. Role of Private Industry in Peremptory and Extraordinary Challenges

At the time persons are chosen for a specific panel, each Party (i.e., country) is permitted "... four peremptory challenges, to be exercised ... in confidence ... ." Since panelists will not be subject to the same constraints on their activities as a judge would be (e.g., other employment), it is especially important that their experiences and affiliations be reviewed prior to the decision on the peremptory challenges. Private industry involved in the review process may be in the best position to know whether a particular candidate would be biased. Therefore, Congress should clarify that private industry involved in the review be allowed access to the panelist's disclosure forms and allowed a role in the decision on peremptory challenges even though the process remains confidential.

Article 1904(13) and Annex 1904.13 of the FTA provides that a review panel or a specific member of a panel may be subject to an extraordinary challenge by the U.S. or Canadian Governments for gross misconduct, bias, serious conflict of interest, materially violating the rules of conduct, a departure from a fundamental rule of procedure or manifestly exceeding its powers, authority or jurisdiction. However, the FTA is silent on whether the U.S. Government must present an extraordinary challenge if private industry involved in the review process asks it to do so. As in court proceedings, all parties appearing before the panel, including private industry, should have the right to present such challenges. Accordingly, Congress should require that the U.S. Government be required to present all extraordinary challenges raised by private parties.

Congress has an important role in ensuring the integrity of the binational review panel process, and it has the mechanisms to do so. Although many of the issues have been decided in the FTA itself and Congress has no authority over the Canadian implementing legislation, Congress has other means of binding Canada on the issues discussed above. Congress can make its enactment of the implementing legislation contingent upon the approval of commitments made by the Government of Canada in the exchange of letters and rules of procedures that are provided for in Chapter 19. Thus, Congress should direct the Administration to expedite the drafting and negotiations of these documents so that they are completed prior to congressional review of the implementing legislation. This will enable Congress to evaluate fully the panel review process contemplated by the two governments.

APPENDIX D

NON-FERROUS METALS PRODUCERS COMMITTEE
LEGISLATIVE PACKAGE FOR INCLUSION
IN FTA IMPLEMENTING LEGISLATION

I. Ongoing Monitoring and Self-Initiated Section 301 Investigations

A. Ongoing Monitoring

- During the ten-year tariff phase-out period, USTR shall submit a report annually to the Senate Finance and the House Ways and Means Committees concerning Canadian Federal and Provincial subsidy practices benefiting or assisting the Canadian copper, lead, and zinc mining, smelting, and refining industries (including continuous cast copper rod).

- In preparing the report, USTR shall consult with the Department of Commerce and the Bureau of Mines.

- The annual report shall be submitted to Congress within three months after the close of the calendar year in question. The reports shall (1) enumerate the types of Canadian Federal and Provincial government programs that benefit or assist the relevant Canadian industries, and (2) specify the extent to which the Canadian industries have utilized these programs and the terms and conditions under which individual companies participate in the programs. This shall include both a company's participation in new programs and its continued participation in previously established programs.

B. Self-Initiated Section 301 Investigations

- Upon the request of a U.S. producer, the President or the U.S. Trade Representative ("USTR") shall self-initiate one or more Section 301 Trade Act investigations on Canadian subsidy practices benefiting or assisting the Canadian copper, lead, and zinc mining, smelting, and refining industries (including continuous cast copper rod). For this purpose, the term "U.S. producer" shall be defined as "a U.S. miner of copper, lead, or zinc ores and concentrates and/or a producer of unwrought, unalloyed copper, lead, or zinc metal."

- At the option of U.S. producers, the Administration shall conduct separate Section 301 investigations on Canadian copper, lead, or zinc.

- o USTR need not conduct a Section 301 investigation with respect to one of the particular Canadian products more frequently than once every three years.

- o If USTR determines that the Canadian subsidies violate or are inconsistent with the GATT Subsidies Code or deny benefits to the United States under any trade agreement or are otherwise unjustifiable, unreasonable, or discriminatory, USTR shall recommend elimination of the subsidies or the imposition of retaliatory measures.

- o Within 21 days after the receipt of USTR's recommendations, the President shall commence negotiations with the Canadian Government to eliminate fully the net subsidies through internal Canadian actions such as the repayment of grants, the renegotiation of subsidized loans, price undertakings concerning smelter treatment charges, and/or the imposition of a Canadian export tax on the relevant Canadian shipments to the United States. If a negotiated solution is not reached within a six-month period, the President shall take retaliatory action aimed at the relevant Canadian non-ferrous imports which shall include at a minimum retaliatory duties that at least equal the duties presently applicable to the relevant Canadian imports and that fully offset the amount of the net subsidies.

- o The ultimate goal of any negotiations with the Canadian Government shall be the permanent elimination of subsidies in the relevant Canadian product sector.

II. Non-Acceleration of Tariff Phase-Down on Non-Ferrous Metals

- o Article 401(5) of the U.S.-Canada Free Trade Agreement provides, in part, that "[a]t the request of either Party, the Parties shall consult to consider acceleration of the elimination of the duty on specific items in the Schedule of each Party." The U.S. shall not agree to the acceleration of the tariff phase-downs on copper, lead and zinc products.

III. Rules of Origin

- o Under Articles 303 and 2104 of the U.S.-Canada Free Trade Agreement, the Parties may agree to revise the rules of origin applicable to goods covered by the Agreement. The U.S. shall not agree to modify the rules of origin applicable to copper, lead, or zinc products absent prior consultation with U.S. producers of these products and Congressional enactment of legislation specifically authorizing the changes.

RESPONSE TO QUESTION FROM CHAIRMAN BENTSEN

1. Non-Ferrous Metals Producers Committee Legislative Package for Inclusion in FTA Implementing Legislation.

2. Non-Ferrous Metals Producers Committee: Critical Issues on the Antidumping and Countervailing Duty Binational Review Panel in the Canada-U.S. Free Trade Agreement.

CRITICAL ISSUES ON THE ANTIDUMPING AND COUNTERVAILING DUTY BINATIONAL REVIEW PANEL IN THE CANADA-U.S. FREE TRADE AGREEMENT

The failure of the Canada-U.S. Free Trade Agreement ("FTA") to establish certain standards and procedures for antidumping and countervailing duty binational panel review is a critical defect in the agreement. Unless these standards and procedures are established in U.S. and Canadian law, the panel cannot serve as an effective and fair replacement for judicial review currently available to U.S. companies. Congress can ensure that there are appropriate standards and procedures by making its enactment of U.S. implementing legislation contingent upon its approval of commitments made by the Government of Canada in the exchange of letters and rules of procedure required under Chapter 19 of the FTA.

Chapter 19 of the FTA provides that binational panel review replace judicial review of Canadian and U.S. antidumping and countervailing duty determinations. Panels are to be established on an ad hoc basis to review specific antidumping and countervailing duty determinations. The members of the panels are normally to be selected from a roster of 50 persons developed by the two countries. While Chapter 19 of the FTA establishes the framework for a judicial-type proceeding, it fails to address or inadequately addresses the most crucial elements necessary to provide for fair and impartial review. These elements include: (1) the designation of an impartial person(s) from each country to select the roster of individuals to serve as panelists; (2) criteria for disqualifying individuals from the roster; (3) meaningful consultations by one government on the other government's roster selection; (4) criteria for disqualifying individuals from serving on a particular panel and minimum standards for the Code of Conduct; and (5) a role for private industry in peremptory and extraordinary challenges of panelists and panels.

It is imperative that each of these issues be appropriately resolved in the implementing legislation and the documents that Chapter 19 requires the two countries to develop jointly. Since several of these issues are interrelated, appropriate resolution of one issue may depend on the other. Moreover, it is essential that these issues be addressed in such a manner as to bind Canada. Otherwise, if the U.S. legislation imposes standards of impartiality on panel members selected by the U.S. Government, but the Canadian Government is free to politicize panel review through the selection process, the result would be a process heavily biased in favor of Canadian interests.

1. Selection of the Roster

Chapter 19 of the FTA is silent on the issue of who in Canada and the U.S. is to select the twenty-five individuals from each country to serve on the roster. This issue is crucial: Unless the persons responsible for roster selection are inclined to choose an impartial and balanced group of individuals to serve on the roster, the integrity of the panel review process would be undermined.

There are two possible methods of selection that could improve the prospects for a fair and impartial binational review process. The greatest impartiality could be achieved by designating the Chief Judge of the Court of Appeals for the Federal Circuit as the person responsible for selection in the United States with his counterpart selecting those individuals from Canada. The judges would be capable of naming candidates "with good character, high standing and repute" who have "general familiarity with international trade law," as Chapter 19 of the FTA provides. Further, this would prevent a politicization of the panel review, a possibility if the Administration were totally free to choose the roster.

Another approach would be to allow the Administration to select the roster, subject to advice and consent of the Senate. The Senate thus can act as a check on the Administration to the extent that it selects a roster of panelists who have strong Canadian affiliations or whose backgrounds indicate that their key objective would be to minimize trade friction with Canada rather than to make a determination on the legal merits of the case. Further, the prospect of Senate advice and consent is more likely to produce an initial list of more objective candidates.

As mentioned above, in order to achieve these goals, both the U.S. and Canada should use similar means of selecting the individuals. Congress could ensure that a comparable method of roster selection is used in Canada by directing the Administration to obtain a commitment on this issue from the Government of Canada.

2. Disqualification From the Roster

A closely related issue is whether certain individuals should be ineligible to be named to the roster because of a particular affiliation, position or background. Annex 1901.2 of the FTA provides that "candidates shall not be affiliated with either Party," and "in no event shall take instructions from either Party." We submit that those affiliated with either party includes any person holding political office or running for political office. Such individuals would be the most susceptible to political pressures and would be the least likely to be impartial panelists. Other candidates who should be deemed affiliated and therefore disqualified from the roster are those persons who have directly represented the governments of Canada or the United States in trade-related matters. Congress could require the Administration to seek a specific commitment from the Government of Canada on this issue or include it in the Code of Conduct.

3. Consultations on the Roster

Under the terms of the FTA, each country's candidates for the roster are to be developed in consultation with the other country. To preserve the impartiality of the selection, this consultation process must be meaningful. Each candidate should be required to disclose to both governments current and past affiliations and financial interests. We submit that Congress should require the Administration to review the disclosure forms for each of the individuals selected by the Government of Canada to determine whether any candidate should be disqualified based on the standards set forth in Annex 1901.2(1) of the FTA, as interpreted by U.S. implementing legislation. Congress should further require the Administration to meet prior to finalization of the roster and discuss with the Government of Canada any candidates who do not meet these standards.

4. Disqualification From a Panel and Related Code of Conduct

Chapter 19 of the FTA does not provide any standards or criteria for disqualification for service on a particular panel. The FTA itself simply provides that the two governments exchange letters establishing a Code of Conduct by the time the FTA enters into effect. In order to assess whether the FTA provides for a fair review process, Congress must review the Code of Conduct governing panels prior to enactment of its own legislation to establish that certain basic standards will be met.

The Code of Conduct should include a minimum provision for disqualification of certain persons from a panel proceeding. The minimum standards must include disqualification of any panelist whose impartiality might reasonably be questioned because of his or his spouse's or his dependents' financial interest in the companies subject to review, a personal bias or prejudice concerning a party in a case, present or past involvement in the industry under investigation (e.g., manufacturers, labor union, wholesalers or importers) or specific involvement in the particular legal questions which are at issue. In addition, basic procedures, including the filing of disclosure forms with the secretariat established under Chapter 19, should be established to assure that the Code of Conduct is rigorously followed by the parties.

5. Role of Private Industry in Peremptory and Extraordinary Challenges

At the time persons are chosen for a specific panel, each Party (i.e., country) is permitted "... four peremptory challenges, to be exercised ... in confidence ... ." Since panelists will not be subject to the same constraints on their activities as a judge would be (e.g., other employment), it is especially important that their experiences and affiliations be reviewed prior to the decision on the peremptory challenges. Private industry involved in the review process may be in the best position to know whether a particular candidate would be biased. Therefore, Congress should clarify that private industry involved in the review be allowed access to the panelist's disclosure forms and allowed a role in the decision on peremptory challenges even though the process remains confidential.

Article 1904(13) and Annex 1904.13 of the FTA provides that a review panel or a specific member of a panel may be subject to an extraordinary challenge by the U.S. or Canadian Governments for gross misconduct, bias, serious conflict of interest, materially violating the rules of conduct, a departure from a fundamental rule of procedure or manifestly exceeding its powers, authority or jurisdiction. However, the FTA is silent on whether the U.S. Government must present an extraordinary challenge if private industry involved in the review process asks it to do so. As in court proceedings, all parties appearing before the panel, including private industry, should have the right to present such challenges. Accordingly, Congress should require that the U.S. Government be required to present all extraordinary challenges raised by private parties.

Congress has an important role in ensuring the integrity of the binational review panel process, and it has the mechanisms to do so. Although many of the issues have been decided in the FTA itself and Congress has no authority over the Canadian implementing legislation, Congress has other means of binding Canada on the issues discussed above. Congress can make its enactment of the implementing legislation contingent upon the approval of commitments made by the Government of Canada in the

exchange of letters and rules of procedures that are provided for in Chapter 19. Thus, Congress should direct the Administration to expedite the drafting and negotiations of these documents so that they are completed prior to congressional review of the implementing legislation. This will enable Congress to evaluate fully the panel review process contemplated by the two governments.

NON-FERROUS METALS PRODUCERS COMMITTEE
LEGISLATIVE PACKAGE FOR INCLUSION
IN FTA IMPLEMENTING LEGISLATION

I. Ongoing Monitoring and Self-Initiated Section 301 Investigations

A. Ongoing Monitoring

- During the ten-year tariff phase-out period, USTR shall submit a report annually to the Senate Finance and the House Ways and Means Committees concerning Canadian Federal and Provincial subsidy practices benefiting or assisting the Canadian copper, lead, and zinc mining, smelting, and refining industries (including continuous cast copper rod).

- In preparing the report, USTR shall consult with the Department of Commerce and the Bureau of Mines.

- The annual report shall be submitted to Congress within three months after the close of the calendar year in question. The reports shall (1) enumerate the types of Canadian Federal and Provincial government programs that benefit or assist the relevant Canadian industries, and (2) specify the extent to which the Canadian industries have utilized these programs and the terms and conditions under which individual companies participate in the programs. This shall include both a company's participation in new programs and its continued participation in previously established programs.

B. Self-Initiated Section 301 Investigations

- Upon the request of a U.S. producer, the President or the U.S. Trade Representative ("USTR") shall self-initiate one or more Section 301 Trade Act investigations on Canadian subsidy practices benefiting or assisting the Canadian copper, lead, and zinc mining, smelting, and refining industries (including continuous cast copper rod). For this purpose, the term "U.S. producer" shall be defined as "a U.S. miner of copper, lead, or zinc ores and concentrates and/or a producer of unwrought, unalloyed copper, lead, or zinc metal."

- At the option of U.S. producers, the Administration shall conduct separate Section 301 investigations on Canadian copper, lead, or zinc.

- USTR need not conduct a Section 301 investigation with respect to one of the particular Canadian products more frequently than once every three years.

- If USTR determines that the Canadian subsidies violate or are inconsistent with the GATT Subsidies Code or deny benefits to the United States under any trade agreement or are otherwise unjustifiable, unreasonable, or discriminatory, USTR shall recommend elimination of the subsidies or the imposition of retaliatory measures.

- Within 21 days after the receipt of USTR's recommendations, the President shall commence negotiations with the Canadian Government to eliminate fully the net subsidies through internal Canadian actions such as the repayment of grants, the renegotiation of subsidized loans, price undertakings concerning smelter treatment charges, and/or the imposition of a Canadian export tax on the relevant Canadian shipments to the United States. If a negotiated solution is not reached within a six-month period, the President shall take retaliatory action aimed at the relevant Canadian non-ferrous imports which shall include at a minimum retaliatory duties that at least equal the duties presently applicable to the relevant Canadian imports and that fully offset the amount of the net subsidies.

- The ultimate goal of any negotiations with the Canadian Government shall be the permanent elimination of subsidies in the relevant Canadian product sector.

II. Non-Acceleration of Tariff Phase-Down on Non-Ferrous Metals

- Article 401(5) of the U.S.-Canada Free Trade Agreement provides, in part, that "[a]t the request of either Party, the Parties shall consult to consider acceleration of the elimination of the duty on specific items in the Schedule of each Party." The U.S. shall not agree to the acceleration of the tariff phase-downs on copper, lead and zinc products.

III. Rules of Origin

- Under Articles 303 and 2104 of the U.S.-Canada Free Trade Agreement, the Parties may agree to revise the rules of origin applicable to goods covered by the Agreement. The U.S. shall not agree to modify the rules of origin applicable to copper, lead, or zinc products absent prior consultation with U.S. producers of these products and Congressional enactment of legislation specifically authorizing the changes.

NEWS RELEASE

Contact	For release
SY UHRICH (604) 661-2206	NOVEMBER 8, 1985 12 NOON PST

Subject

FEDERAL FINANCIAL PACKAGE FOR COMINCO ANNOUNCED

RIE 105/85

TRAIL, British Columbia, November 8, 1985 -- The federal government today announced a $79 million financial package to help modernize Cominco's forty year old lead smelter plant at Trail, B.C. The announcement was made by Pat Carney, Minister of Energy, Mines and Resources, in her capacity as Acting Minister of Regional Industrial Expansion.

The signing of today's memorandum of understanding culminates months of complex and concentrated discussions between Sinclair Stevens, Minister of Regional Industrial Expansion, and Cominco.

Cominco must undertake a major modernization in order to remain competitive in the international market. Through the agreement negotiated between Mr. Stevens and the company, the federal government would purchase a $79 million preferred share issue to be made by Cominco to help finance the modernization. The package would be structured in such a way as to reduce the company's downside risk, while protecting the government's investment. A complex financing formula has been worked out whereby the potential federal cost recovery would increase as the profitability of the project increases.

Miss Carney announced the assistance package at a news conference in Trail, where she and Cominco President, Bill Wilson, signed a memorandum of understanding outlining the principles of the proposed assistance.

"Without federal assistance, this $270 million modernization project would not proceed and the old lead smelter at Trail would be in danger of being shut down," said Miss Carney. "This project also ensures a continuing market for more than 40 small Canadian mines currently selling concentrates to Trail and opens opportunities to replace imported smelting coke with domestic coal. The continued operation of the Sullivan mine at Kimberley, B.C. would also be more secure as a result of the new smelter."

Kootenay West MP Bob Brisco said today's announcement marks the fulfillment of a pledge by the Government. The modernization will result in considerable economic and environmental benefits to Canada and British Columbia, he said. "It has received strong support from labour, local governments and area residents. In total up to 6,000 direct and indirect jobs could be affected by this decision."

Science and Technology Minister Tom Siddon indicated that Cominco's Trail lead smelter and refinery is currently one of the highest cost operations in the world and unit costs would rise further as the plant continued to age. "By employing leading-edge production technology, the new smelter would cut unit production costs substantially to the point where it would be one of the world's lowest cost lead producers," he said.

The new technology features substantially reduced levels of air and water pollution and enhanced work place hygiene. This, combined with the continued ability to produce a high quality lead and to treat a variety of "dirty" concentrates, would place the company in a favourable position to compete in international markets.

The new lead smelter, to be built in two stages as the existing smelter is being phased out, would create 835 person years of work in Stage 1 construction plus additional jobs during Stage 2.

By introducing what is considered to be the latest and best available production technology in the world Cominco would take its place at the forefront of lead smelting technology when the new plant comes on stream in 1989.

BACKGROUNDER

CANADA/COMINCO
MEMORANDUM OF UNDERSTANDING

The Government of Canada through the Department of Regional Industrial Expansion and Cominco have concluded an agreement in the form of a Memorandum of Understanding (MOU) whereby the Government of Canada will purchase a $[illegible] million preferred share issue required by Cominco to finance the modernization of its lead smelter at Trail, British Columbia.

RATIONALE

Cominco Ltd., 52.8% owned by Canadian Pacific Enterprises Limited, is the largest metal processor in British Columbia employing over 6,000 in the province. Cominco is proposing the construction of a new modern lead smelter at its Trail, B.C., operations which will replace the existing smelter. The existing smelter, which was constructed in the late 40s and early 50s, is physically worn out and employs technology which has become obsolete. Consequently, the existing facility requires heavy maintenance, has low productivity, and high energy costs. This situation makes the company one of the highest cost producers of lead in the world and

is rapidly reducing its competitiveness in world markets. The existing facility also has difficulty in meeting provincial standards for environmental pollution and workplace hygiene.

The proposed new lead smelter is to be built in two stages while the existing smelter is being phased out. Estimated total capital cost is $270 million (Current $). The facility, when completed, will have a production capacity of 176,000 short T.P.Y. of refined lead which will increase current production by about 46,000 short T.P.Y. The new production facility will restore the company to its historical production capacity. It will employ a direct flash smelting process using state-of-the-art technology. It is anticipated that the new smelter will significantly reduce unit operating costs, moving Cominco to a position of being one of the lowest cost producers in the world, thereby ensuring the continued viability of Trail lead smelting operations.

The MOU provides for the purchase by Canada of ~~$69~~ 79 million worth of a new series of preferred shares over three years. The shares will be held by the Federal Business Development Bank (FBDB).

The MOU also defines a Rate of Return Index (RORI) which relates the profitability of the new smelter to the international prices for lead and silver. Based on this RORI the MOU further outlines the conditions under which the Company will pay dividends and retire the principal amount of the shares over a twenty year period. Under this arrangement any shares left unredeemed at the end of twenty years will be cancelled.

Province of British Columbia **NEWS RELEASE**

IMMEDIATE RELEASE
Monday, August 25, 1986

B.C. PURCHASE AIDS COMINCO'S TRAIL SMELTER

The purchase of $55 million in preferred shares of Cominco Ltd. by the Province of British Columbia will allow the company to modernize its Trail lead smelter and preserve about 2,000 jobs in the Kootenays.

Announcement of the purchase, the first of its kind by B.C., was made by Premier William Vander Zalm in Trail today where he and several members of Cabinet started an economic tour of the Kootenays.

"This purchase -- and I emphasize it is not a grant or a loan -- of preferred shares in Cominco is an excellent investment by the Province that will bear a variety of fruit," Vander Zalm said.

The Premier explained that without the investment by the province and the federal government, which has agreed to purchase at least $69 million in preferred shares, the jobs of more than 2,000 persons may have been lost directly and, indirectly, many more.

At peak there are 1,000 employed in the lead smelter and related activities at Trail and 1,000 at the Sullivan Mine in Kimberley.

"The modernization of the lead smelter at a cost of $260 million will allow Cominco to compete from a more favourable postion on the world market," Vander Zalm said. "They can lower the costs of lead production to a point where the company could well become the world leader in the industry."

Economic Development Minister Grace McCarthy, whose ministry was responsible for negotiations of the purchase, praised the cooperative spirit of the company and the workers.

"Between 1978 and 1982, Cominco modernized its zinc plant at a cost of $400 million -- and today they are the world leaders in zinc production and sales," McCarthy said. "I have every expectation that the modernization of the lead smelter will have the same impact."

McCarthy said that at the peak the modernization program will involve about 300 people in the construction area over the next three years.

Premier Vander Zalm said the investment by the Province brings a new security and stability to the area "because there is now an assurance of long-term employment in the smelter and Sullivan Mine in Kimberley, which in turn generates other jobs in the communities."

He said the project also ensures a continuing market for more than 40 small Canadian mines currently selling concentrates to Trail.

"There is a great additional benefit," said Vander Zalm, "and that is the health and safety of the workers in the smelter. It is no secret that Cominco has had some difficulty in meeting water and air emission standards on a consistent basis and the modernization allows them to complete the necessary work to comply with the Ministry of Environment and Workers' Compensation Board standards, which means a new measure of safety for those employed there."

The Premier said the Province feels the investment will produce a fair return as the company reduces its cost of production through modernization, and metal prices return to historical levels.

Vander Zalm said it is important to note that the B.C. Government does not have voting rights and is not in the position of "running the business -- but does have the right to participate in the profits."

Cominco

NEWS RELEASE

August 25, 1986

BUSINESS ARRANGEMENTS FOR NEW LEAD SMELTER COMPLETED

Vancouver-Cominco Metals, a Division of Cominco Ltd., is proceeding with the modernization of its lead smelter at Trail, B.C., M.N. Anderson, Chairman and CEO announced today. The Cominco Board of Directors has approved the $171 million first phase of the $260 million project following a decision by the Province of British Columbia to invest in the project. The Government of Canada agreed last year to make a similar investment.

The decades-old high-cost lead smelter will be replaced with a low-cost, state-of-the-art smelter that will help Cominco's competitiveness in world lead markets. It will

also mean improved environmental conditions in the workplace, and complements other major modernization projects carried out in recent years at Trail at a cost of nearly $500 million.

"Modernization of the lead smelter will help preserve jobs at Trail and at Cominco's Sullivan Mine in Kimberley, B.C., one of the main sources of the smelter's concentrate", Mr. Anderson said. "It will give us the opportunity to improve Cominco's competitive position in the lead market by reduced cost of production through greater productivity, lower energy costs, and improved working conditions", said Mr. Anderson.

A Memorandum of Understanding was signed with the Government of British Columbia in Trail today under which Cominco will issue preferred shares to the Province to the value of $55 million over a 5-year period. The shares will be redeemable and bear interest at a floating rate tied to metal prices.

This agreement is similar in its terms to one signed in November, 1985 with the Federal Government. The Federal Government has agreed to invest $79 million in the project.

August 25, 1986

BACKGROUNDER: COMINCO LEAD SMELTER MODERNIZATION

The lead smelting operation at Cominco Metals', Trail, B.C. Operations treats lead ore concentrates to produce lead bullion, an impure form of lead that is refined in the Lead Refinery at Trail. Steps in the smelting process

include proportioning and drying of the feed, sintering to remove sulphur, and reduction in blast furnaces with coke to produce lead bullion and slag. The slag is further treated in furnaces to recover zinc. The lead bullion is refined to recover lead, silver and gold.

In recent years, an alternate technology for lead smelting, called oxygen smelting, has been developed. Oxygen smelting combines the sintering and blast furnace operations into one reactor, or vessel. The lead concentrates, zinc plant residues, oxygen and fluxes are fed into the reactor. The resulting reaction uses previously wasted energy to produce a high temperature slag and lead bullion which are tapped separately from the vessel.

The oxygen smelting process will bring about environmental improvements, particularly in the workplace, because it greatly reduces the amount of materials handling required and results in a low volume of very high strength sulphur dioxide gas which can be treated in the $40 million Sulphur Gas Handling facility completed at Trail in 1985. The sintering and blast furnace operations, which are major sources of airborne in-plant dust, will be eliminated by the oxygen smelting process.

In addition to the reactor vessel, the new system will require pressure filtering of the residues, a gas cooling and cleaning system and lead bullion handling facilities.

A supplier-owned oxygen plant will be built and operated by Cominco on a nearby site. The $45 million cost of this plant is included in the $171 million cost of Phase One.

The plant capacity will be up to the 160,000 metric tons per year of lead bullion on completion of Phase One.

Phase Two of the project would begin construction some time after the completion of Phase One and would consist of rebuilding the slag fuming furnaces and new coal grinding and drying facilities at a cost of about $89 million.

Manpower Requirements

Manpower requirements for the lead smelter modernization project will have two components: design and construction.

The design team will build quickly in the first year, reaching its peak of about 50 for a few months in the spring of 1987, then tapering down as construction proceeds. This design work may be done at various Cominco locations.

The construction crews will build a little more slowly. A maximum of about 40 people will be required for site preparation during 1986. By mid-1987 about 100 will be on the construction site, building toward a peak level of about 240 between early 1988 and early 1989. Crew strength will drop rapidly toward the start-up date in the spring of 1989.

Much of the construction work is expected to be done by people already on roll, but a modest amount of hiring in certain trades may be necessary during the peak period. Tradespeople taken for production jobs in the plants will have to be replaced while they are on the construction jobs. When construction is complete, the employment at Trail will drop to about 2600 people from the present pre-construction level of 2700.

RESPONSE TO QUESTION FROM SENATOR BAUCUS

Documentation of Canadian Government Subsidy Practices

Item Number and Description

1. Description of exemplary Canadian Government subsidy practices.

2. Information concerning Canadian Government subsidies to the non-ferrous metals industry based on certain Canadian Government and industry publications.

3. Analysis by the Doe Run Company of the commercial effect of the Canadian Government subsidies to the Cominco Ltd. lead smelter at Trail, British Columbia. Letter to Senator Danforth dated Nov. 25, 1987.

4. Other Documents:

   a. U.S. State Department Telegrams:

      -- 21 Oct. 1985 (Montreal 02291), overview of Canadian Government assistance to Quebec industry.

      -- 15 Nov. 1985 (Vancouver 02207), "New Type of Subsidy for Lead-Zinc Producer."

      -- 19 Apr. 1986 (State 120333), NFMPC Section 305 request.

      -- 13 May 1986 (Ottawa 03893), Section 305 report and overview.

      -- 28 May 1986 (Ottawa 04266), Section 305 further information.

      -- 11 Aug. 1986 (Ottawa 06272), Section 305 further information.

      -- 9 Feb. 1987 (Vancouver 00243), Subsidy to Cominco through sale of "limited recourse" "preferred shares."

   b. U.S. Commerce Department Memorandum to Private Sector Advisors from M. Czinkota, Deputy Assistant Secretary for Trade Information and Analysis, concerning Trade Related Investment Measures Inventory.

   c. Press release by Canadian Ministry of Energy, Mines and Resources, Nov. 8, 1985, in which Minister Carney states: "Without federal assistance, this $270 million modernization project would not proceed...." Two Cominco Ltd. press releases concerning the project accompany the materials.

   d. Publication by the Canadian Government's environmental agency, Environment Canada, describing the C$300 million funding for smelter emission controls and modernization, "Taking Action Against Acid Rain." The C$150 million in federal funds are to be matched by an additional C$150 million in provincial government funds. See p. 4.

e. Canadian accounting and law firms descriptions of government "incentive" programs for Canadian businesses:

-- Goodman & Carr
-- Weir & Foulds
-- Ernst & Whinney
-- Deloitte Haskins & Sells

f. Study by Canadian Ministry of Energy, Mines and Resources which states that current subsidy practices, such as regional development incentives, will continue unhindered by the FTA Agreement. The study states: "The Agreement does not inhibit Canada's right to support mineral development in all regions of the country" (p. 21). The study also admits that the Canadian copper and lead metal sectors are comparatively weak (p. 16).

g. Clippings from mining and metals industry newspapers and journals concerning various Canadian Government subsidy practices for the non-ferrous metals industry.

Information Concerning the Competitiveness of the U.S. Non-Ferrous Metals Industry

The Competitiveness and Strength of the U.S. Non-Ferrous Metals Industry

The non-ferrous metals mining and processing industry is a strong and competitive industry, with average costs that are fully competitive with average costs of production worldwide. This competitive condition is the result of a dramatic effort to cut costs, improve productivity, restructure assets, and rationalize production in the U.S. industry. There is little evidence to support the notion that Canada enjoys a lower cost and more competitive long-term position when does the United States. At ASARCO, for example, we have succeeded in reducing our domestic cost of producing copper from more than 90 cents per pound in the early 1980's to a full cost of less than 58 cents per pound of production from mine to market today. Similar progress in cost reduction has been achieved in the company's lead operations, at our zinc mine production in eastern Tennessee, and in our silver-lead-zinc mining operations in Idaho. This is a pattern that has been typical throughout the mining and minerals processing industry in the United States.

Moreover, contrary to what is often regarded as conventional wisdom, the United States is endowed with a strong mineral reserve base. According to the U.S. Bureau of Mines, the domestic reserve base for copper is 90 million tons, compared with 23 million tons in Canada; the U.S. reserve base for lead is 26 million tons compared with 17 million tons in Canada. While Canada has a stronger reserve position for zinc, at 56 million tons, the U.S. zinc reserve base is a close second at 53 million tons. Our nation produced an estimated 1.4 million tons of copper mine production in 1987 compared with 800,000 tons of Canadian mine production. Similarly U.S. refined copper production in 1987 was an estimated 1.6 million tons compared with about 500,000 tons in Canada. For lead, U.S. and Canadian mine productions are about equal in the range of 300,000 - 400,000 tons per year. U.S. refined lead metal production,

however, was nearly 1 million tons in 1987 based on a strong contribution from secondary lead supplies, compared with a Canadian refined metal production of 218,000 tons. For zinc, U.S. mine production was an estimated 246,000 tons in 1987 compared with 1.5 million tons in Canada. While Canadian zinc mine production is expected to begin trending downward in 1988, Canada will remain the world's largest producer and exporter of zinc. Nevertheless, U.S. refined zinc output of about 340 thousand tons in 1987 made the United States the fourth largest producer in the free world.

INFORMATION CONCERNING CANADIAN GOVERNMENT SUBSIDIES TO THE NON-FERROUS METALS INDUSTRY BASED ON CERTAIN CANADIAN GOVERNMENT PUBLICATIONS

I. Cominco Ltd.'s Trail Smelter

According to the Canada yearbook: 1980, modernization of the Trail Smelter began in 1986. The first phase is installation of a new 160,000 tonnes per year furnace and is scheduled for completion in 1989.

Cominco's 1984 Annual Report states that Trail processed concentrates from mines in northwest United States as well as Canada.

The Financial Post's Survey of Mines and Energy Resources: 1987 provides the following information about the government financing for the Trail Smelter:

Series E and F preferred stock were involved: 790,000 Series E shares and 550,000 Series F shares were respectively subscribed for and allotted to the Government of Canada and the Province of British Columbia. These shares are entitled to cumulative cash dividends commencing March 31, 1987. Redemption or subject to cancellation not earlier than March 31, 1997 "based upon rate of return index governed by world prices for lead and silver." May be purchased for cancellation or redeemed at the option, at the issue price.

Annual production capacity at the Trail operations is 300,000 tons of refined zinc and 135,000 tons of refined lead.

Phase 1 of a $126,000,000 lead smelter modernization program is planned for 1987. Program will include construction of a new smelter and air separation plant.

Cominco ownership: The Nunachiaq, Inc. partnership owns 29% interest in Cominco. Nunachiaq's composition is Teck Corp, 50%, MIM Holdings Ltd. of Australia 25%, Metallgesellschaft A.GT. of West Germany, 25%.

The Canadian Minerals Yearbook: 1986 chapter on Lead states:

"Cominco approved the $171 million first phase of the $260 million project following offers from the Province of British Columbia and the Government of Canada to invest $55 million and $79 million, respectively, in the project. Cominco issued redeemable preferred shares which will bear interest at a floating rate tied to metal prices. The new smelter will have a capacity of 160,000 tpy, the same as the existing lead refinery, and will use the state-of-the-art QSL process developed by Lurgi GmbH. The first phase will be completed by late-summer 1989. The modernization project will increase the efficiency of metallurgical operations at the Trail plant and significantly improve environmental and hygienic conditions." (p. 35.1)

II. Canadian Copper Concentrate Production and Exports

Canada does export copper concentrates, even from provinces which have smelting capacity. However, there are significant differences among provinces in this regard. According to the Canada Yearbook: 1988, although British Columbia and Ontario account for 41% and 39% of Canadian copper mine production in 1986, "British Columbia's production is mostly exported for smelting, while Ontario's production is processed domestically." (p. 10.5)

As to Canadian copper reserves, the source states: "A significant number of mines will be exhausted prior to 1990, but the prospect of continuing low prices has discouraged exploration for replacement capacity." (p. 10.5)

III. Canadian Copper Industry

In 1986, according to the Canada Yearbook: 1988, there were six Canadian copper smelters:

Hudson Bay Mining & Smelting Co., Ltd., Flin Flon, Man.
Falconbridge Ltd., Timmins, Ont., 90,000 tonnes per year capacity.
Falconbridge Ltd., Falconbridge, Ont.
Copper Cliff, Ont.
Noranda, Horne smelter and CCR refinery, Rouyn-Noranda, Que.
Noranda Inc., Gaspe smelter, Murdochville, Que.

There were similarly three copper refineries:

Falconbridge Ltd., Timmins, Ont.
Inco Lt., Copper Cliff, Ont.
Montreal East, Que.

The Canadian Minerals Yearbook: 1986 states: "Although Canadian copper producers benefit compared to their U.S. competitors from the lower value of the Canadian dollar, U.S. producers secured wage reductions in 1986 in the order of 20 percent that were not matched in Canada." (p. 23.4) It continues: "As development of replacement of replacement capacity has not been keeping pace with the mining of reserves, copper production in Canada will eventually fall at currently forecasted prices." (p. 23.4)

IV. Canadian Zinc Industry

The Canada Yearbook: 1988 states: "Canada is the world's largest producer and trader of zinc, providing about 25% of all zinc consumed in the western world." (p. 10.6) There are four electrolytic zinc refineries in Canada with an aggregate capacity of 705,000 tonnes per year:

Cominco Ltd., Trail BC,
Canadian Electrolytic Zinc Ltd, Valleyfield, Que.
Falconbridge Ltd., Timmins, Ont,.
Hudson Bay Mining & Smelting Co., Ltd., Flin Flon, Man.

"All smelters, except that at Flin Flon, have completed modernization and expansion programs in recent years, the most recent being Falconbridge." (p. 10.6) "Zinc is produced in approximately 25 mines in Canada, all of which also produce as coproducts or byproducts, lead, copper or both as well as gold and silver." (p. 10.6) The lead-zinc mine at Faro, Yukon was reopened in June 1986, after being closed in 1982. (p. 10.8)

The Canadian Minerals Yearbook: 1986 states: "Production resumed at the Faro, Yukon Territory, zinc-lead-silver mine of Curragh Resources Corporation in early-June 1986. This former operations of Cyprus Anvil Mining Corporation was closed in June 1982 because of heavy losses." (p. 35.2)

V. Canadian Lead Industry

The Canada Yearbook: 1988 states: "Canada is the third leagest mine produce of lead and the fifth largest lead metal producer in the western world, with 11% and 6% of mine and metal production, respectively." (p. 10.8) In 1986, "exports of lead in concentrates, mainly to Europe, Japan and the US, were also boosted as a result [of the reopening of the mine at Faro, Yukon], from 20-35% to approximately 40% of mine production." p. 10.8) The remainder were processed at Canada's two primary lead smelters/refineries:

Cominco Ltd., Trail, BC, 145,000 tonnes per year capacity.
Brunswick Mining & Smelting Corp., Ltd., Belledune, NB, 72,000 tonnes per year capacity.

STATEMENT OF Dr. RUDOLPH OSWALD, DIRECTOR OF ECONOMIC RESEARCH, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS BEFORE THE SENATE FINANCE COMMITTEE ON THE U.S. -CANADA FREE TRADE AGREEMENT

APRIL 21, 1988

Mr. Chairman, members of the committee, the AFL-CIO appreciates this opportunity to present its views on the proposed U.S.-Canada Free Trade Agreement. The Federation believes that this agreement, signed by President Reagan and Prime Minister Mulroney on January 2, 1988, will do little to solve the serious trade problems that exist between the U.S. and Canada, and may in fact make them worse. The AFL-CIO joins the Canadian labor movement in opposing this agreement because we share the view that governments must play a positive role in managing relations between countries and that increased reliance on so-called "market forces" will not necessarily promote economic growth and equity.

Generally speaking, there is little in the agreement that will benefit American workers. It does not address the huge imbalances in trade in goods between the U.S. and Canada, nor the large exchange rate differential which has contributed importantly to those imbalances. Its silence on the issue of exchange rates is particularly significant, and raises real questions concerning the validity of the entire exercise. How can American industry and agriculture hope to compete on a fair and equitable basis when current exchange rates have the effect of conferring a 28% cost advantage on Canadian producers? The exchange rate advantage of the Canadians operates much like a tariff on the Canadian side of the ledger, raising the price of U.S. goods by 28%. But the exchange rate differential is worse than a tariff on the export of Canadian goods to the U.S. It cheapens their goods by 28% in the U.S. market, giving them a substantial advantage over U.S. goods. The tragic experience of the U.S. over the last eight years has amply demonstrated the importance of exchange rates in international trade, and the failure of the agreement to address this factor is, alone, sufficient grounds for Senate disapproval.

The agreement itself, while moving in the direction of "market" determined trade does not by any measure establish free trade. Significant inequities in trade practices will remain, even after the ten year transition period. What has been negotiated, is not a free trade agreement, but a new bilateral trade arrangement, and it should be judged on the basis of fairness, reciprocity, and national interest.

Regrettably, the agreement falls far short of meeting these goals. A whole series of Canadian practices that discriminate against U.S. production have been grandfathered. By prohibiting the introduction of new measures to regulate or manage trade, Canadian advantage has been solidified.

It appears, that the trade-off for the continuation of discriminatory Canadian practices is greater access for U.S. investment and services. Even here, however, reciprocal treatment has not been achieved, and the U.S. has forfeited the right to employ measures that may prove necessary in the future. The AFL-CIO has long been concerned over the priority given to negotiations on investment and trade in services. The principal trade problem facing the U.S. is undeniably the massive trade deficits occurring in the manufacturing sector and the resultant loss of employment. Emphasis on "liberalizing" trade in services and investment flows will have little impact on this central issue, and may in fact contribute to the deterioration of the domestic manufacturing sector if discriminatory practices of other countries in the goods area are left intact as the price for reductions in barriers to services and investment. This problem is regrettably demonstrated by the telecommunications section of the agreement. While the U.S. has gained greater access for telecommunications services, Canadian procurement policies that discriminate against telecommunication goods produced in the U.S. remain in place. Further, what may appear to some as "barriers" to service trade on international investment are in fact proper and even essential social and economic policies in both the U.S. and foreign economies. While unrestricted flows of services and investment may be important to certain corporate interests, this does not make them significant for the economy as a whole.

The AFL-CIO is also concerned that this proposed agreement will be used as a blueprint for bilateral negotiations with other countries as well as in the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade (GATT). Recent pronouncements by President Reagan and Vice President Bush concerning a free trade agreement with Mexico have served to underscore that worry. The U.S. can ill afford to continue to ignore the damage done by one sided trade to the domestic manufacturing sector.

The AFL-CIO Executive Council in a statement adopted February 19, 1988 (Attached) outlined objections to a number of specific provisions of the agreement including the following:

* The separate procedures established for Canada regarding trade remedy law are not only unwise in and of themselves, but establish an extremely bad precedent for negotiations with other countries. These provisions have the potential of limiting the ability of the U.S. to take action under the countervailing duty and antidumping statutes, as well as Sec. 301 and the escape clause. Not only is there little assurance that Canadian subsidies (many of which are provincial) will end, but many discriminatory Canadian practices have been essentially endorsed.

* The existing inequities between the U.S. and Canadian implementation of the 1965 Auto Pact are retained, while the growing use of imported parts is not sufficiently discouraged. The production and Canadian value-added requirements imposed on Canadian auto producers are continued, while the U.S. has no similar safeguards. The North American value required for duty-free entry into the U.S. is too low to prevent erosion in the North American content of vehicles produced by U.S. companies, and would not significantly increase the North American value of vehicles assembled by foreign-owned "transplant" operations.

* The existing inequities between the U.S. and Canada concerning treatment of the trucking industry will continue. Currently, Canada's restrictions on trans-border trucking severely limit the ability of U.S. companies to compete in that country, while Canadian companies have been able to operate with relative freedom in the U.S. since U.S. trucking deregulation was approved in 1980.

* Provisions concerning textiles and apparel will provide a major incentive for imports from elsewhere to flood into both countries to take advantage of our enlarged market and of the inability of Customs to properly monitor the trade flows across our huge border. The existing quota agreements of both countries will be both more fully filled and more highly circumvented.

* Tariff rate advantages and duty remission programs will not be eliminated for up to ten years thereby encouraging Canadian production and discouraging U.S. exports. The U.S. has agreed to phase out the recently enacted customs-user fee for Canada, which only amounts to .17%.

* Additional U.S. Federal government procurement is opened for Canadian bidding, with a value six times greater than the amount allowed for U.S. producers. The U.S. needs to strengthen, not weaken, buy American laws and regulations.

* U.S. immigration law is weakened by substantially easing the ability of "business and professional" persons to temporarily enter the U.S. For those covered, the agreement eliminates prior approval procedures, petitions, or labor certification tests.

* A wide range of Canadian industries and agricultural commodities would continue to receive protection, or favorable differential treatment. They include autos, telecommunications, trucking, wine and beer, grain, poultry and eggs, fish, plywood, and so-called cultural industries.

* Of specific concern are issues involving natural resources including uranium, coal, and oil. The AFL-CIO believes that this agreement will weaken U.S. energy independence and have a negative impact on the employment of workers in the energy sector. The prohibition on controls for imported uranium will have a disastrous impact on an already severely depressed industry. The export of 50,000 barrels per day of Alaska oil will result in greater reliance on foreign sources. The prohibition on import or export controls for electrical power will intensify U.S. reliance on Canadian power in many parts of the country. This will serve to depress construction of electrical power generating stations and reduce demand for U.S. mined coal.

The AFL-CIO believes that this agreement is totally inadequate to the task of solving the trade problems that exist between the U.S. and Canada. The agreement does not promote U.S. employment and production which would reduce the large U.S. trade deficit with Canada. At the very least, America should demand reciprocal treatment in trade. This agreement falls far short of even that modest goal, and should be rejected by Congress.

Attachment

Statement by the AFL-CIO Executive Council

on

U.S.-Canada Free Trade Agreement

February 19, 1988
Bal Harbour, FL

The U.S.-Canada Free Trade Agreement signed on January 2, 1988, and awaiting Congressional consideration, will do little to solve the serious trade problems between the U.S. and Canada and may in fact make them worse. The AFL-CIO joins our brothers and sisters in the Canadian labor movement in opposing this agreement. We share the view that governments must play a positive role in managing relations between countries and reject the notion that "market forces" alone will promote economic growth and equity.

Specifically, the agreement does not address:

* The huge U.S. imbalances in trade of goods with Canada;
* the large exchange rate differential.

While moving in the direction of "market" determined trade, the agreement does not, by any measure, establish free trade. Significant inequities in trade practices will remain, even after the ten-year transition period.

The AFL-CIO particularly objects to provisions in the agreement that would:

* Establish separate procedures for U.S.-Canada trade;
* Maintain Canadian tariff advantages for ten years;
* Open additional federal government procurement to Canadian bidding;
* Permit continued Canadian protection of a variety of industries;
* Reduce U.S. energy independence by permitting the export of 50,000 barrels per day of Alaskan oil and prohibit controls on the import or export of electrical power;
* Weaken U.S. immigration law.
* Retain favorable treatment in auto trade for Canada;
* Permit Canadian advantage for certain agricultural commodities.
* Disadvantage certain U.S. mineral industries.

The AFL-CIO calls upon Congress to reject the U.S.-Canada Free Trade Agreement.

###

Statement of Senator Donald W. Riegle, Jr.
Senate Finance Committee Hearing
Automotive Section of Free Trade Agreement
April 15, 1988

I want to thank you, Mr. Chairman, for convening this hearing on what may be one of the most significant sectors addressed by the U.S. -- Canada Free Trade Agreement, the automotive industry.

More than one-third of the trade between the U.S. and Canada is related to the automotive industry. This industry contributes 4.1 percent to the Gross National Product. In 1986, $114.8 billion worth of automobiles and $56.7 billion worth of trucks were produced in the United States. Seven hundred and fifty thousand workers are employed in motor vehicle manufacturing in 36 states.

The automotive industry is one of the best customers for such vital U.S. products as iron, steel and lead, computer chips, textiles and electronics. Forty-six states have suppliers to the automotive industry. If we take into account employment in the in the automotive sector and all related industries, 10.7 million people -- 13.8 percent of all U.S. workers -- are dependent on this industry.

The magnitude of this sector is important to remember as we review the proposed trade agreement between the U.S. and Canada. Two sectors of the agreement are particularly troublesome for me, and although the industry itself has various opinions about this agreement, there are two issues on which manufacturers, parts and labor all agree -- that the duty remission should be eliminated immediately and the rule of origin should be higher than 50%.

The first provision of concern is the continuation of production-based duty remission. This Canadian program is scheduled to remain in effect until 1996 for certain foreign-owned manufacturers in Canada. Under this program, Canada grants a reduced duty on vehicles and parts imported into Canada by a manufacturer, provided that manufacturer increases the amount of Canadian value added in its assembly operations in Canada. This program discriminates against U.S. parts producers, because only the use of Canadian parts qualify vehicle manufacturers for reduced duties on their imports. Use of U.S. parts do not.

The real importance of continuing this program for another 7 years is its effect on the future sourcing decisions of

foreign-owned vehicle manufacturers in Canada. It is widely acknowledged that, particularly in the case of Japanese manufacturers, once a parts supplier is chosen, it is a relationship of long-standing. The supplier becomes part of the design team, part of the overall planning which takes place on future models, part of the manufacturing family. By providing Canadian suppliers with this advantage for the next 7 years, U.S. parts producers are cut out of future opportunities to supply these plants. The program will encourage U.S. suppliers to locate in Canada, thus jeopardizing American jobs across this country.

Mr. Chairman, Canada has yet to respond to the USTR request dated January 29, to furnish the contracts or written commitments on production-based duty remission. Given that our negotiators addressed this issue without knowledge of their content, it would seem appropriate to have this information before we consider the implementing legislation. Therefore, I believe it would be appropriate for the Committee to request of the Canadian government, a substantive response to this matter.

The second issue is the Rule of Origin. It specifies the criteria that a product must meet to be considered "Made In" the U.S. or Canada, if the product does not wholly originate in either country. The Rule of Origin states that 50 percent of the total direct manufacturing costs of a vehicle must be of U.S. and/or Canadian origin. If a vehicle meets the rule, it would be considered "domestic" and therefore eligible for duty-free treatment when entering the U.S. from Canada. Vehicles exported to Canada from the U.S. by foreign-owned transplant facilities would achieve duty-free status in 1996.

According to a GAO Report, "The primary purpose of the rule of origin is to ensure that significant economic activity takes place in a country before an importer can claim that country as the source of the product."

It has been determined by the industry that under a 50% Rule of Origin, the engine and transmission, major components of an automobile, which account for signficant supplier jobs, would not have to be of U.S. or Canadian origin. Therefore, if the 50% rule stands, there will be no reason for assembly plants to become manufacturing plants, and for both foreign-owned as well as U.S.-owned companies to use as many North American parts as possible. Increasing the Rule of Origin to 60 percent would ensure that the engine or transmission is of U.S. or Canadian

origin and would be in the mutual interest of parts suppliers in both countries. Although our negotiators sought to increase the percentage during the negotiations, Canada made unreasonable counter-demands as a condition of agreeing to do so.

The duty remission and rule of origin questions may not be able to be adequately addressed in the implementing language for this agreement to remain valid. But I intend to seek at least two clarifications.

One is to put more specifics into the section dealing with the Select Panel to assess the state of the North American auto industry and future initiatives which will strengthen this industry critical to both countries. We need to be sure that it is comprised of an adequate representation of all interests, auto parts manufacturers with facilities in the U.S. only, in Canada only, and those with facilities in both countries;, U.S.-based auto manufacturers, representatives from labor, and others with an interest in strengthening the North American auto industry to better compete with Asia, Europe and Latin America.

In addition, time limits should be established for the Select Panel to meet and make an initial report.

Issues such as an increase in the rule of origin, duty remission, and other specific areas should be included in the implementing language to assure the full consideration of the future of the industry.

Finally, if we are serious about revisiting the question of an increased rule of origin, the implementing language should contain authority for the President to negotiate so that it can be put into place as expeditiously as possible. Canada can do this by regulation. We should, at a minimum, assure fast-track consideration of such a change.

Testimony of
Richard W. Roberts, President
National Foreign Trade Council

The membership of the National Foreign Trade Council strongly endorses the U.S.-Canada Free Trade Agreement and urges that Congress approve the agreement and enact the necessary enabling legislation.

In many respects, the U.S.-Canada economic relationship can already be characterized as both successful and dynamic; the two countries are each other's largest trading partner, and cross-border trade and investment are accelerating.

- From 1980 through 1986 U.S. exports to Canada increased 36% compared with a 7.4% decline in exports to the rest of the world

- During this same period Canadian exports to the United States increased 64% compared with a 17% decline in exports to all other countries.

- And each country's direct investment in the other has increased substantially since 1980.

Why a U.S. Canada trade pact is needed

This record of growth and the necessity to compete effectively in international markets provide compelling reasons to press forward with a further liberalization of trade and investment relations between the two countries.

First, the Canadian market is more protected than the U.S. market, so that the United States has much to gain by a reduction in the web of barriers that shelters Canadian industry from non-Canadian competition;

Second, while Canada's nationalistic economic policies are now less in evidence than during the 70's and early 80's, an agreement which prevents the creation of new barriers would provide greater certainty for U.S. business;

Third, trade and investment disputes between the two countries, which are inevitable, given the volume of economic activity, have from time to time created periods of mutual mistrust; an agreed method for the orderly resolution of such disputes would promote a stable relationship;

Fourth, the growth of international competition has made it imperative that U.S. industry and Canadian industry as well increase their competitiveness, which would be enhanced by conducting operations in a larger, single market, as opposed to separate U.S. and Canadian markets.

The principal features of the agreement are:

- Elimination of all tariffs over a 10-year period
- Reduction or elimination of non-tariff barriers across a broad spectrum of economic activity
- Establishment of ground rules in the areas of services, investment and technology
- Liberalization of bilateral trade in agriculture, autos, energy and other sectors
- Creation of machinery for the orderly and objective settlement of disputes

In contrast to most bilateral trade negotiations, which address a limited set of issues, a particularly noteworthy feature of the U.S.-Canada agreement is its breadth - covering, as it does, most of the significant economic activity between the two countries.

Economic effects

Overall, most economic analyses indicate a positive impact on both countries.

As Canadian tariffs are eliminated, and non-tariff barriers in such areas as government procurement and standards are removed, we foresee increased U.S. exports to Canada and an enhanced capability of U.S. industry to compete in the Canadian market with Canadian and third country producers. Since Canadian tariffs are higher than U.S. tariffs, U.S. exporters should benefit comparatively more than Canadian exporters from the scheduled reductions.

The Commerce Department estimates that U.S. trade with Canada will increase by $25 billion during the first five years of the agreement and that 14,000 new manufacturing jobs alone will be created.

The competitiveness of U.S. industry will be further enhanced as companies restructure and rationalize their opera-

tions to serve a unified U.S.-Canada market rather than separate markets. These changes will also help U.S. industry to compete in international markets. While some Canadian industries may gain market share in the United States, we believe that the benefits of the agreement for U.S. business as a whole will greatly exceed the costs of adjustment in those sectors of U.S. industry which must adapt to increased Canadian competition.

Adjusting to the new rules

The agreement does not accomplish everything that our negotiators, and some individual components of the business community, would have liked. But our assessment is that the agreement accomplishes a great deal, and that an appraisal of its merits must be based on its overall benefits rather than its effects on a single sector or a particular company, industry or interest group. There are several features of the agreement which will facilitate adjustment to new conditions:

- First, while the agreement eliminates all tariffs, the reductions are gradual, extending over a period as long as 10 years to allow time for adjustment
- Second, the agreement provides for additional negotiations to address unresolved problems and unfinished business. For example,

  The section on services contains three annexes covering three sectors; architecture, tourism and telecommunications - and it specifies that additional sectoral annexes will be negotiated in the future.

  The government procurement section calls for additional negotiations to expand coverage of the section.

In order to maintain the momentum, we recommend that the enabling legislation include appropriate directions for these additional negotiations to be commenced, including starting dates and provision for consultation with Congress as the discussions progress.

- And third, the Agreement establishes a consultative body, the Canada-United States Trade Commission, to supervise the implementation of the agreement and to resolve dispu-

tes. This mechanism will provide stability in trade relations and reduce the risk of retaliation and confrontation. Even as to issues which are not specifically made subject to further negotiations, it may be both necessary and appropriate for the United States to institute discussions with Canada within the framework of the agreement aimed at resolving trade and investment issues which affect our vital interests. In short, the agreement establishes not just a set of rules, but a process for strengthening economic relations between the two countries.

The multilateral context

The U.S.-Canada Free Trade Agreement has important implications for our trade relations with other countries. Some of the provisions may provide a useful model for treating similar issues in the Uruguay round of multilateral trade negotiations. For example, the sections in the Canadian pact on services and on financial services should provide a basis for GATT provisions in these areas. Similarly, the section on investment may stimulate action in the GATT discussions on an investment code. But we would caution that only selected portions of the U.S.-Canada agreement can be applied in the GATT negotiations; for example the services section of the Canada pact contains a sweeping "grandfather" clause, ratifying some existing discriminatory provisions, a concession the United States should not make in developing a GATT code on services. Again, certain provisions in the investment section of the U.S.-Canada pact would not be at all appropriate in a GATT context. The primary importance of the services and investment sections of the U.S.-Canada pact for the GATT negotiations is the demonstration that major trading nations can agree to reduce barriers and establish discipline in these areas, which up to now have scarcely been addressed by the GATT.

Some proponents of the U.S.-Canada Free Trade Agreement maintain that it can serve as a prototype for similar agreements between the United States and other trading partners. While it may be useful to advance this prospect as a means to stimulate action in the GATT, we would have reservations about the United States instituting negotiations for a free trade agreement with other trading partners at this time. Special relationships justify free trade agreements with Canada and Israel; but entering into additional free trade agreements with other

countries could reduce emphasis on the multilateralization of world trade. Regional trading blocks seem to us to be a distinctly less desirable alternative than a world trade environment defined by a single set of principles. On the other hand, if the GATT negotiations, which have at least two years to run, end with little in the way of accomplishment, leaving multilateral discipline over trade and investment in its present state, we would at that time support a cautious, targeted program of negotiations for free trade agreements with particular countries.

In conclusion, we respectfully urge that the U.S.-Canada trade agreement be approved by Congress; it is a major step toward a more open international trading environment.

STATEMENT OF

MARC SANTUCCI

Thank you, Mr. Chairman, for the opportunity to testify on the provisions of the U.S.-Canada Free Trade Agreement (FTA) governing trade in automotive products. Governor Blanchard sends his best wishes, and regrets that he could not be here today.

The Reagan Administration began the trade negotiations with the goal of producing a free trade agreement. Unfortunately, the result is an agreement that, at least in the automotive sector, does not live up to its name.

For 23 years automotive trade has been governed by the U.S-Canada Automotive Agreement (Auto Pact) which, contrary to popular belief, is not a bilateral free trade agreement. Rather, it has distorted trade and investment to the benefit of Canada. Subsequent Canadian government policies -- specifically the automotive duty remission programs -- continue this distortion.

The reality of this distortion has become clear. Honda, Toyota, CAMI (GM-Suzuki), and Hyundai are in production or have under construction new vehicle manufacturing facilities in Canada. In a market 1/10th the size of the U.S., Canada is expected to be producing 500,000 additional vehicles by 1990, or approximately 22 percent of the estimated 2.3 million vehicles to be produced in North America by third-country manufacturers at that time. Most of the Canadian-built vehicles will be exported to the U.S.

During the long negotiations, the State of Michigan worked to focus the Administration's attention on these problems. It was our desire to secure changes that would provide for truly free trade in the automotive sector -- and make reality conform to the popular perception.

The results in the automotive sector were deeply disappointing to the State of Michigan. Given the existing skewing of benefits to Canada, the improvements that have been made have come off a very low base.

GENERAL COMMENTS

Notwithstanding problems in the automotive sector, the State of Michigan is otherwise likely to derive some benefit from the FTA. The five-year phase-out of Canada's high tariff on institutional furniture will help an important Michigan industry. Improved access to lower cost Canadian electrical power could improve the competitiveness of Michigan's manufacturing base. The City of Detroit, located at the western end of the populous, industrial Canadian corridor running from Montreal to Windsor, is well positioned to become a major point of service activity that would accompany the projected increase in two-way trade.

While important, these benefits cannot compare to the magnitude of trade in automotive products. In 1986, Michigan and Ontario alone traded over half of the $46 billion in U.S.-Canada automotive trade. Overall, automotive trade constitutes more than 35 percent of total U.S.-Canada trade.

Despite the significance of this trade, it is my view that the Reagan Administration sacrificed a critical opportunity to make significant changes in the terms of automotive trade to its imperative of "getting an agreement." The resulting

91-402 0 - 89 - 6

provisions governing automotive trade reflect a total lack of commitment to make meaningful changes. By way of example, the U.S. allowed Canada to keep practices detrimental to U.S.-based parts suppliers for up to 10 more years, even though the Administration had previously determined the practices to be GATT-illegal.

The automotive trade provisions further reflect a disturbing lack of understanding of the operation and economics of the automotive sector. The Administration declares victory by pointing to practices eliminated or modified, and yet the economic benefits of these actions will not be felt for many years and, I believe, are offset by other changes, or by an absence of change.

AUTOMOTIVE TRADE PROVISIONS

In general, the FTA made a few positive changes in the current rules governing trade in automotive products. But, unfortunately, these benefits are offset by major shortcomings in practical economic terms.

Accompanying my statement is a "side-by-side" prepared by the Michigan Department of Commerce. Considerable detail comparing the current rules of automotive trade with the provisions of the FTA is contained in this document. My comments will focus on only two provisions affecting automotive trade: the Rule of Origin, and the automotive duty remission programs.

Rule of Origin -- The FTA Rule of Origin is the most important factor ensuring that the primary benefits of automotive products trade accrue to vehicle manufacturers and parts suppliers in the U.S. and Canada.

The FTA imposes a tougher new Rule of Origin for duty-free entry into the U.S. for all Canadian-built vehicle and parts. The Rule of Origin states that at least 50 percent of the total direct costs of manufacturing a vehicle, engine and transmission, be of U.S. and/or Canadian origin.

The new Rule of Origin, while tougher, is too low. It does not provide enough incentive for vehicle manufacturers to source the engine and transmission in the U.S. or Canada. Increasing the Rule of Origin to 60 percent would partially address this concern and be in the mutual interest of parts supplies in both countries.

The engine and transmission represent approximately 30 percent of the total manufacturing costs of a vehicle. As a result: vehicle manufacturers in Canada, specifically those operating under the Auto Pact, will be able to import duty-free engines and transmission having an origin other than U.S. and/or Canadian, assemble these components in vehicles in Canada, and qualify such vehicles for duty-free treatment when entering the U.S.

But the problems of the Rule of Origin go beyond the manufacturers' sourcing of the engine and transmission. Not all automotive parts are subject to the 50 percent requirement. The reality is that the 50 percent Rule of Origin could be much less.

The Rule of Origin makes it possible for certain automotive parts to be determined of Canadian origin, even though all the steel, aluminum, plastic, or other materials used in the parts are imported from third countries, and the amount of processing in Canada equals less than 50 percent. For those parts, Canadian origin is conferred when a change in tariff classification takes place. When exported to the U.S., those parts would enter duty-free.

In addition, inclusion of such parts in vehicles built in Canada would allow the manufacturer to count those parts as entirely of Canadian origin for purposes of determining whether the vehicle is eligible for duty-free treatment when exported to the U.S. This would also be the case for subcomponents of the engines and transmission, which of themselves must also meet the 50 percent Rule of Origin.

It should be noted, by way of comparision, that the Rule of Origin in the case of vehicles entering into trade within European Free Trade Area (EFTA) is tougher than the FTA Rule of Origin for vehicles. The EFTA, consisting of Austria, Finland, Ireland, Norway, Sweden, Switzerland, and the countries of the European Economic Community (EEC), requires vehicles to meet a 60 percent Rule of Origin, based upon net value added, in order to trade duty-free.

Duty Remission -- The FTA ends Canada's "export-based" duty remission program effective January 1, 1989, for exports to the U.S. Under this program, Canada grants certain motor vehicle manufacturers (but not those operating under the Auto Pact) that purchase Canadian-built parts for export to the U.S. a reduced duty on imports into Canada of completed vehicles. Ending this program will eliminate subsidized exports of Canadian-built parts to the U.S.

While the export-based duty remission program was terminated immediately for exports to the U.S., it is continued through January 1, 1998, for exports to third countries. This will allow subsidized Canadian exports to third countries, primarily Japan and Korea, in direct competition with U.S.-built parts which do not benefit from similar subsidies. This action has probably negated whatever gains may have been made during the recent MOSS negotiations on automotive parts between the U.S. and Japan.

Moreover, the FTA allows Canada to continue its "production-based" duty remission program until 1996 for certain foreign-owned manufacturers in Canada named in the FTA. Under this program, Canada grants a reduced duty on vehicles and parts imported into Canada by a vehicle manufacturer provided that manufacturer increases over the time the amount of Canadian value added in its assembly operations in Canada. This program discriminates against the purchase of U.S.-built parts, and distorts parts supplier investment to Canada during the critical period that eligible foreign-owned manufacturers are establishing sourcing patterns for their Canadian assembly operations.

The fact that the duty remission programs were retained for up to 10 more years has troubling economic and legal aspects for the State of Michigan. From an economic standpoint, the duty remission programs, particularly the production-based program, distorts trade and investment to benefit of Canada, and these effects will linger long after the program has been terminated.

Manaufacturers eligible for the program will seek parts from Canadian-based suppliers in order to qualify for reduced duties on vehicles and other parts imported into Canada. Once supply contracts enter into force, Canadian-based suppliers can expect a long-term relationship with the manufacturers. In addition, parts suppliers from the U.S. and Japan will face strong pressure to locate in Canada since manufacturers will want to purchase parts from a Canadian-based operation in order to qualify for a reduce duty on imports. These investments are unlikely to be abandoned once the duty remission program ends.

From a legal standpoint, the duty remssion programs appear to violate GATT. In September 1985, Governor Blanchard wrote Ambassador Yeutter asking for an analysis of the legal status of the export-based program under GATT. A subsequent legal analysis, secured with the help of Congressman John Dingell and Senator Carl Levin, stated:

> "Since duty remission benefits are directly tied to the amount of Canadian value added contained in auto parts exported by the beneficiary company, duty remission appears to be an export subsidy inconsistent with Article 9 of the GATT Subsidies Code."

Ambassador Yeutter also stated that he would seek elimination of the program during the negotiations.

In November 1987, Governor Blanchard again wrote Ambassador Yeutter when it was revealed that the production-based program was to be retained for a number of years. The Governor made this request pursuant to section 305 of the Trade Act, in order to obtain information about the program not available within the U.S. government. Nevertheless, the U.S. agreed in the FTA to honor the Canadian government "contracts" with foreign-owned manufacturers sight unseen.

Pursuant to the Governor's request, Ambassador Yeutter wrote the Canadian Ambassador on January 29, 1988, requesting copies of these "contracts." Ambassador Yeutter also stated his willingness to work with the Government of Canada to protect against the disclosure of business confidential information, should that be an issue of concern. After two and one-half months, the Canadian government has not substantively responded to the Ambassador's request.

It is my belief that the production-based duty remission program contains requirements to purchase products of Canadian origin and would be illegal under Article III (National Treatment) of the GATT.

CANADIAN DUTY SUSPENSION POLICY

The use of duty suspension by Canada has troublesome policy implications that were not addressed during the negotiations.

Unlike the EEC, the U.S. and Canada have agreed to establish a "free trade area" rather than a common market. The distinction is critical. Under a common market, the governments agree to equalize their external duties with third-countries, while under a free trade area the governments are able to unilaterally adjust their external duties.

This has been the situation in the automotive sector during the past 23 years. The effect on the U.S. automotive sector of Canada's ability to administratively adjust its external duties has been to attract investment from the U.S. and undermine U.S. trade policy.

The problems that occur are the result of several factors. The U.S. government has used temporary relief measures, such as quotas or high tariffs, to assist its domestic steel industry. The Canadian government has used its privileged access to the U.S. automotive products market to the disadvantage of the very industry the U.S. is attempting to assist.

Where a U.S.-based parts supplier uses imported steel, Canada will agree to suspend its duty on that imported steel if the supplier locates in Canada. Because

Canada's steel industry is not as diverse as the U.S. industry, it would not be affected when duties are suspended on the imported steel.

The result: many U.S. parts suppliers have moved to Canada where they import the same steel products from third countries (e.g., Japan, Germany, etc.) into Canada duty-free. Once that steel is processed into an automotive parts, it may enter the U.S. duty-free. The U.S. loses jobs, investment, and local tax revenues; the parts are still sold in the U.S., but at a competitive advantage.

This scenario would not change appreciably even in the absence of import quotas. The ability to avoid U.S. duties alone would be sufficient incentive to locate in Canada.

During the past few years, the Michigan Department of Commerce has learned of several companies that have moved or are contemplating locating in Canada. The most serious one involved a growing automotive parts supplier who received a large contract to begin supplying a major U.S. vehicle manufacturer during 1988. Approximately 50 percent of the supplier's steel was of U.S. origin; the other steel used was imported because it was proprietary. A comparable steel product was not made in the U.S.

Canada agreed to suspend its duty on the imported steel if the supplier located its operation in Canada. A decision by the supplier is pending. If the supplier does relocate, Michigan will lose the new jobs and investment necessary to satisfy the contract, and the U.S. steel industry will lose sales, since the supplier is expected to shift its U.S. purchases to Canadian steel producers.

The FTA did not address this issue. The FTA only requires Canada, if it decides to suspend a duty on imported products, to suspend the duty for all importers of the product, rather than on a case-by-case basis. Moreover, Canada is not obligated to consider whether a U.S. product exists when determining whether to suspend its duty on a similar third-country product. The effect is that U.S. manufacturers have no preference when exporting the U.S. product to Canada.

The failure to address this issue could in time undermine U.S. defense and trade policy. In the future, the U.S. may decide to provide legitimate import relief under Section 201, or adopt policies regulating imports to assist and industry vital to our national defense under Section 232. Where the U.S. decides to assist, for example, the machine tool industry, computer chip manufacturers, and others, Canada could eliminate duties on similar third-country products as way of attracting users of these products to Canada.

To be sure, the new Rule of Origin will ensure that some processing is undertaken in Canada to transform the imported third-country product into a new article eligible to enter the U.S. duty-free under the FTA. However, the Rule of Origin only addresses the "trade effect." It does not address the "investment effect" -- that is, the use of Canadian duty suspension on third-country products to attract investment and jobs from the U.S.

CONCLUSION

In conclusion, the State of Michigan's criticisms of the FTA go to a number of the changes that were made, and the failure to make others. The U.S. has lived with "free trade" in the automotive sector with Canada for 23 years, and the "benefits" of the Auto Pact have jaded us to the alleged benefits of the FTA for automotive trade. Our concern is that many of the proclaimed benefits will be limited, or of no benefit at all, or otherwise offset by Canadian practices as yet not addressed.

The problems in the automotive sector require immediate action by the Administration in the context of implementing legislation for the FTA or by some other means. Specifically,

-- The Administration should use every available means to engage the Canadian government in a reconsideration of the adequacy of the Rule of Origin, focusing on its operation and the percentage.

-- The Administration should vigorously pursue U.S. rights in the GATT when Michigan files its 301 case against the illegal Canadian duty remission programs in the automotive sector.

-- The Administration should forcefully state that it will withdraw from the Auto Pact if any new motor vehicle manufacturers -- specifically future joint ventures -- qualify for Auto Pact status in Canada.

-- The Administration must develop options to respond to the investment distorting effects of the Canadian duty suspension policy.

SIDE-BY-SIDE ON THE TERMS AND CONDITIONS AFFECTING U.S.-CANADA AUTOMOTIVE TRADE
PRIOR TO AND UNDER THE FREE TRADE AGREEMENT

PROVISION	PRIOR TO FTA	FTA	COMMENTS/ANALYSIS
I. DUTY REMISSION PROGRAM			
a) Export-based	Canada gives foreign-owned vehicle manufacturers that purchase Canadian parts for export a remission (rebate) of duties on vehicles the manufacturers import into Canada.	Canada agreed to terminate this program as of January 1, 1989, only for exports to the U.S.	In 1986, USTR determined this program was a GATT-illegal export subsidy. Termination of the program removes the subsidy prompting foreign-owned vehicle manufacturers in the U.S. to purchase Canadian-built parts over U.S.-built parts in order to obtain a remission of duties on vehicles the manufacturers import into Canada. However, remissions will be available for foreign-owned vehicle manufacturers in Canada purchasing Canadian-built parts for export to countries other than the U.S., thereby placing U.S.-built parts at a competitive disadvantage in those countries.
b) Production-based	Canada gives foreign-owned vehicle manufacturers that purchase Canadian-built parts for use in their Canadian assembly operations a remission (rebate) of duties on vehicles and parts the manufacturers import into Canada.	Canada is allowed to continue this program through December 31, 1995. The program cannot be expanded or enhanced during this period, or renewed.	Honda, Hyundai, Toyota and GM-Suzuki in Canada are eligible for duty remissions under this program. It discriminates against U.S.-based parts suppliers; purchases of U.S.-built parts will not qualify these manufacturers for duty remissions on vehicles and parts they import into Canada. It distorts investment; U.S. and foreign-owned parts suppliers will be encouraged to locate in Canada to help these manufacturers qualify for remissions. The result: once long-term supply contracts with foreign-owned manufacturers enter into force and investments are made, termination of this program will not create new opportunities for U.S.-based parts suppliers.

II. AUTO PACT	A motor vehicle manufacturers in Canada may qualify.	Only motor vehicle manufacturers in Canada currently qualified, and possibly one additional major vehicle manufacturer, can operate under the Auto Pact.	Only the Canadian subsidiaries of Chrysler, Ford and GM (and certain truck manufacturers) are currently qualified. The GM-Suzuki joint venture could become qualified by the close of Model Year 1989. No other vehicle manufacturer can become qualified under the Auto Pact.
a) Production-to Sales Ratio	Each vehicle manufacturer in Canada must assemble one vehicle in Canada for every vehicle sold in Canada.	Unchanged	These requirements protect Canada against increased imports of vehicles and parts by the vehicle manufacturer's Canadian subsidiaries. The production-to-sales and Canadian value-added requirements ensure that vehicle production 1) in units, will not fall below the number of vehicles sold in Canada, and 2) in value, will be not less than 60 percent of value of vehicles sold in Canada The U.S. has no similar requirements protecting U.S. production. Moreover, Canada gives no preference to U.S.-built parts over third-country parts that are imported by the manufacturer's Canadian subsidiaries. Foreign-owned vehicle manufacturers in Canada will not be subject to these requirements. This places U.S.-based parts suppliers on an equal footing with Canadian-based suppliers in selling to the foreign-owned vehicle manufacturers in Canada. Nor will foreign-owned vehicle manufacturers be eligible for mulitilateral sourcing. This removes the incentive for new foreign-owned vehicle manufacturers to locate in Canada.
b) 60 percent Canadian value-added	The value of each vehicle manufacturer's production and parts purchases in Canada must equal 60 percent of the value of the manufacturer's vehicle sales in Canada.	Unchanged	
c) Mulitilateral Sourcing of Parts and Vehicles	Vehicle manufacturers in Canada meeting a) and b) above are "qualified" to import vehicles and original equipment parts into Canada duty-free from any country, including the U.S.	Unchanged	

III. TARIFFS	Canada imposes a 9.2 percent (1987) duty on new motor vehicles and 8% (1987) duty on most original equipment parts imported by vehicle manufacturers that are not "qualified" under the Auto Pact. Canada imposes an 8% duty on most replacement parts. The U.S. imposes no duty on new vehicles and original equipment parts from Canada if those articles meet the Standard of Preference (see IV. below). The U.S. imposes a 3.1% duty on replacement parts.	Canada agreed to phase-out duties on new vehicles and parts from the U.S. ratably over 10 years beginning January 1, 1989. The U.S. and and Canada agreed to phase-out duties on replacement parts ratably over 5 years.	"Qualified" vehicle manufacturers in Canada can continue to import vehicles and parts into Canada duty-free. Foreign-owned vehicle manufacturers in the U.S. cannot export to Canada duty-free. After 1998, foreign-owned manufacturers in the U.S. will be able to export vehicles to to Canada duty-free -- a situation that exists presently for all vehicles exported to the U.S. from Canada. The extended phase-out provides continued protection to the Canadian market, and enhances Canada's ability, by comparison with the U.S., to attract new investment during this period.
IV. STANDARD OF PREFERENCE	Canada does not use a Standard of Preference. Only "qualified" vehicle manuacturers in Canada are able to import vehicles and parts into Canada duty-free. The U.S. allows a motor vehicle or part built in Canada to enter the U.S. duty-free provided that at least 50% of the appraised value of the vehicle or part is of North American (U.S.-Canada) origin.	For U.S.-built vehicles and parts imported into Canada by "qualified" manufacturers, duty-free entry remains unchanged. For vehicles built in the U.S. by foreign-owned manufacturers and exported to Canada, and all U.S.-built parts for foreign-owned manufacturers in Canada, the standard is 50% "direct cost of manufacturing." For Canadian-built vehicles exported to the U.S. by "qualified" vehicle manufacturers and foreign-owned manufacturers, the standard is 50% "direct cost of manufacturing." For Canadian-built parts exported to U.S. vehicle manufacturers whose subsidiaries are "qualified" in Canada and foreign-owned vehicle manufacturers in the U.S., the standard is 50% "direct cost of manufacturing."	The 50% North American direct cost of manufacturing standard creates an incentive for foreign-owned vehicle manufacturers in the U.S. and Canada, and "qualified" manufacturers in Canada, to purchase U.S. and Canadian-built parts in order for vehicles built by all manufacturers in Canada to enter the U.S. duty-free, and for vehicles built by foreign-owned manufacturers in the U.S. to enter Canada at a reduced (or 0 after 1998) duty (see III. above). However, the 50% standard does not provide enough incentive for vehicle manufacturers to purchase the engine and drive train, and a large portion of the other major components, in North America.

V.	FOREIGN TRADE ZONE/INWARD PROCESSING PROGRAM	Foreign parts may be imported into a U.S. Foreign Trade Zone duty-free, assembled in a vehicle and, upon entering the "customs territory" of the U.S., a 2.5% duty is imposed. No U.S. duty is imposed if vehicles are exported to Canada. The Canadian Inward Processing Program is substantially similar to the Foregin Trade Zone Program.	All vehicles "exported" from a Foreign Trade Zone will pay the U.S. duty, including those exported to Canada, after 1993. Canada will impose a duty on all vehicles "exported" under the Inward Processing Program, including vehicles exported to the U.S., after 1993.	Canada claimed that Foreign Trade Zones were a subsidy for the export of foreign parts to Canada. This approach removes the subsidy aspect and allows both the U.S. and Canada to collect duties when all vehicles are exported from Zones or Inward Processing locations.
VI.	DUTY DRAWBACK	Duty drawback permits the rebate of duties paid on imported components when products containing those components are exported. Both the U.S. and Canada use duty drawback programs.	Duty drawback is eliminated after 1993 for products exported to the other country.	The continuation of duty drawback through 1993 will encourage foreign-owned vehicle manufacturers in Canada to import third-country parts for assembly into vehicles that are exported to the U.S. duty-free in order to receive the drawback. All manufacturers in the U.S. assembling vehicles containing foreign parts would receive a duty drawback through 1993 when those vehicles are exported to Canada. However, Canadian duties would still be assessed during this period only on vehicles assembled in the U.S. by foreign-owned manufacturers.

VII. MISCELLANEOUS

a) "Used Car" Embargo	Canada prohibits the importation of most used motor vehicles. The U.S. has no similar prohibition.	Canada agreed to phase-out the prohibition over 4 years, according to the following schedule: in 1989, vehicles produced in Model Year (MY) 1981 and before; 1990, MY 1984 and before; 1991, MY 1987 and before; 1992, MY 1990 and before; and, 1993, MY 1993 and before.	Used vehicles exported to Canada would still be assessed duties as negotiated under the agreement.
b) Blue Ribbon Panel	No provision.	The U.S. and Canada agreed to establish this Panel to assess the state of the North American industry and to propose public policy measures and private initiatives to improve its competitiveness in domestic and foreign markets.	No beginning or ending date for the deliberations of the Panel were established.
c) Cooperation in Multilateral Round	No provision.	The U.S. and Canada agreed to cooperate in the Uruguay Round of multilateral trade negotiations to create new export opportunities for North American automotive products.	

Prepared by the Michigan Department of Commerce

STATEMENT OF SENATOR STEVE SYMMS
TO THE FINANCE COMMITTEE
April 15, 1988

THE UNITED STATES -- CANADA FREE TRADE AGREEMENT

First, Mr. Chairman, let me express my appreciation to the Committee for permitting me to present these remarks today on the Free Trade Agreement negotiated last year between the United States and Canada. If the difficulties that I see still unresolved in the agreement can be corrected, this Free Trade Agreement will be one of the most historic and beneficial things in world history.

The potential for increasing the standard of living for all Americans and Canadians is immense. Our two nations already share the world's longest undefended border; we share a common political and legal heritage; our mutual trade is the greatest in the world, even as impeded as it now is by trade restrictions and tariff regulations.

In the big picture of things, there is just no reason why our two countries should not eliminate all economic barriers between producers and consumers on both sides of the border. Greater productivity and economic efficiency have the potential to make everyone better off.

There is serious political opposition to the Free Trade Agreement both in the United States and in Canada. The reason for opposition is just as clear and easy to understand as the economic potential for great benefits: the Free Trade Agreement will cause a re-allocation of economic resources between our two countries, so that each national economy will become more specialized and efficient in producing and trading those commodities and services in which each of us has a comparative advantage.

This is what has long ago happened inside the United States and inside of Canada. We all understand the adjustment pains of the movement of industry from the rust belt to the sun belt, and the adjustments as our industrial productivity has improved and we have created more and more high-technology service jobs to replace lower-technology industrial jobs.

The economic adjustments that must occur will not make anyone happy who will have to make an adjustment. It will even make some people temporarily worse off, so none of us should be so full of positive words about the Free Trade Agreement that we become insensitive to the real economic problems the Free Trade Agreement will create in the transition years. The "transition years," moreover, will last a long time -- much longer than the period of phasing in the tariff reductions and the subsidy reductions that are actually addressed in the agreement.

I am appearing before the Committee today as a supporter of the Free Trade Agreement. I believe the free market system is the best way to produce social and economic justice -- and politics and politicians most of the time do not produce more justice and equity with all the regulating and meddling we do, in the interests of our constituents. I am a firm advocate of free markets, and the people of Idaho are advocates of the free market.

Idaho is distinguished for being one of the most agriculturally dependent states in the Nation (fourth in

terms of percent of jobs supplied by agriculture). Yet, Idaho agriculture is very different from other ag-dependent States. Eighty percent of our farm production (by value) is not subsidized by the Federal government. While most other ag-states are heavily dependent on wheat and feedgrains, cotton, rice or soybeans, Idaho produces potatoes, onions, dry edible beans, peas and lentils, fresh fruits, beef, and lamb.

In 1987, the Commodity Credit Corporation of the U.S. Department of Agriculture paid out $2.8 billion in wheat subsidies, $14 billion in corn and feed grain subsidies, almost a billion in rice subsidies ($906 million), and $1.8 billion in cotton subsidies. It did not make any payments for potatoes, onions, beans or any of those other crops that make up the bulk of Idaho agriculture.

That is why, Mr. Chairman, Idaho agriculture suffers dramatically and unfairly when forced to compete against subsidized ag products. The same products that Idahoans produce without subsidy are produced in Canada with subsidies at various levels.

Perhaps the most dramatic subsidy is that offered to Canada's east-bound freight. Idaho producers are now depending on new markets in the eastern United States. Under the Free Trade Agreement they will be required to compete with farm production just north of them that is shipped to the eastern seaboard, in part, courtesy of the Canadian government. Here in Washington, the transporation from Idaho can make up as much as one third of the cost you pay for Idaho potatoes. How can Idaho producers be expected to compete against such a significant transportation subsidy?

But that is not all. Canadian potato and dry edible bean producers also receive direct subsidies from their own national and provincial governments. These subsidies insulate Canadian farmers from market signals, allowing them to continue producing even when market prices have dropped below production costs. An Idaho farmer cannot continue producing for a prolonged period of time under those circumstances. After all, Idaho farmers must make a profit on their potatoes, or they don't eat. They have no supplemental government subsidy to keep them in business and their families on the land.

There are "snap-back" provisions in the Free Trade Agreement that restore trade barriers in cases where severe market damage is caused by Canadian subsidies. Unfortunately, these provisions are geared to fluctuations in price, not surges in volume. Therefore, if subsidized Canadian sales are strategically targeted at grabbing market share rather than depressing prices, the "snap-back" will be of no benefit at all to Idaho farmers and their piles of potatoes without buyers.

As a supporter of the free market, therefore, I am here to urge the Committee to consider adding language to the Free Trade Agreement -- understandings on the part of the Congress -- that will bind the Administration to take further action to get those unjust and unfair economic subsidies and market restrictions eliminated. Not eliminated gradually -- eliminated right now!

If the reallocation of resources that we know must occur under the Free Trade Agreement is to be done fairly, and in the true interests of American consumers and Canadian consumers -- and with fairness to all producers -- the Canadian practices that are economically wrong must end. And yes, Congress must take action to eliminate a lot of subsidies and restrictions on this side of the border too. Until this further work is done, however, I am afraid the Free Trade Agreement is very deeply flawed.

Whenever negotiators work out a complex international agreement the temptation is to address only those issues that appear to have the easiest solutions. I sincerely fear that the pressure to reach this agreement at the end of last year may just have led to some "path of least resistance" understandings. I am not going to allow this conclusion to turn me against the Free Trade Agreement, but I am here to tell you today that this Senator is going to do everything I can to make up for any "path of least resistance" problems in the Free Trade Agreement.

Idaho's agriculture and mineral-based economy suffers when trade barriers prevent us from selling our products in Canada and the Free Trade Agreement is helpful in that area. But far greater harm may be done to the Idaho economy by the subsidization of Canadian products, and we cannot permit that to happen to my State, nor to any economic interest in any of your States.

Thank you.

TESTIMONY

ON

THE U.S.-CANADIAN FREE TRADE AGREEMENT

BY

ALEXANDER B. TROWBRIDGE
PRESIDENT
NATIONAL ASSOCIATION OF MANUFACTURERS

BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

APRIL 21, 1988

Mr. Chairman, Members of the Committee, I am Alexander Trowbridge, president of the National Association of Manufacturers (NAM). I am here today not only for NAM but also on behalf of the American Coalition for Trade Expansion with Canada, better known as ACTE/CAN. This is a coalition of 560 companies and associations, all of which support the implementation of the agreement with Canada. As you know, this agreement will have little practical meaning unless it is ratified by the passage of implementing legislation here in the United States and in Canada. It is, therefore, extremely important that the Congress make every effort to understand the effects that this agreement will have on American citizens and the American economy.

I want to be clear about NAM's position on the agreement from the outset. Our members believe that the free-trade agreement with Canada is a good agreement and that it will benefit American industry. Accordingly, I am here to urge the Congress and the Administration to develop implementing legislation quickly and to move that legislation from Capitol Hill to the President's desk as soon as possible.

This is not to say that we are completely satisfied with the agreement. There are things we would like to have seen accomplished which were not accomplished. Disappointments, however, must be seen in context. The United States and Canada are both sovereign powers. Neither was in a position to ask the other to endorse its vision of a free trade agreement, and both came to the table with more hopes than

any agreement could possibly have fulfilled. What is impressive is that so much was achieved and that most of the quarrels various groups have with the agreement are disappointments rather than fundamental disagreements. There are admittedly a number of people who feel that, in one area or another, the negotiators did not go far enough. Very few argue that they went too far.

COMPETITIVENESS AND THE FTA

It is doubtful that any other single policy initiative has as much potential for advancing U.S. trading interests as the Canada-U.S. Free-Trade Agreement. The idea of free trade between our two countries is hardly new. In a sense, it is a permanent feature of the history of our two countries. A fair reading of that history also suggests, however, that major breakthroughs in the U.S.-Canadian commercial relationship are rare and profoundly important opportunities. The agreement under consideration today is just such an opportunity. It is perhaps a more important opportunity for the United States than any previous agreement or possible agreement because trade and trade competitiveness are more important to us today than they have been at any other time. The agreement has twenty-one chapters. Each contains several articles, and most provisions of most articles have more than one impact on trade. This morning I would like to highlight three areas: tariffs, investment, and energy. These are among the most obvious and the most significant.

TARIFFS

Canada protects her industries the old fashioned way: with tariffs. It has frequently been noted that Canadian tariffs are roughly twice as high as our own, 9 percent for Canada as against 4 percent for the United States. A 9 percent tariff can be quite a hurdle and in some cases a prohibitive one. Even so, it is a percentage that greatly undervalues the power of Canadian tariffs and their ability to block exports from the United States. A brief consideration of how these numbers are arrived at shows why.

In the real world, business people deal, not with a general U.S. or Canadian tariff rate, but with a series of rates on individual

products on everything from shampoo to satellites. Average rates are the result of a fairly simple exercise in arithmetic. Analysts simply divide tariff revenue collected by the value of the dutiable imports into the country one is focusing on. Products kept out by high tariffs do not enter into the equation at all. The often quoted fact that 65 percent of U.S. exports to Canada enter duty free only underscores this point. If only 35 percent of U.S. exports to Canada are dutiable, and if the average duty paid on those exports is 9 percent, then it is likely that high Canadian tariffs are keeping a lot of U.S. products out of Canada.

In order to demonstrate that many of Canada's real tariff rates are at or above the 9 percent level, we conducted an extremely informal analysis. A member of the NAM staff simply flipped through the pages of the appendix to the agreement that shows current Canadian tariff rates. Here is some of what he found:

Products	Tariff Rates (ad valorem)
ice cream	15.5
alcohols and derivatives	10 to 12.5
certain glues	12.5
plastics	8.7 to 22.5
certain doormats	17.5
tires	10.7
surgical gloves	25
leather handbags	17.1
exercise books	11.2
woven woolen fabrics	25
printed nylon fabrics	25
certain carpets	20
terry cloth towels	25
(In clothing, the dominant rate is)	25
certain footwear	22.8
safety glass for railway vehicles	17.5
bridges and bridge sections	12.2

liquefied gas containers	10.6
covered copper wire	10.2
hydraulic turbines	15
bakery ovens	11.3
household refrigerators	12.6
gas water heaters	12.5
wooden furniture	15
certain telephone switching apparatus	17.5

The point here is not to make the case for one industry or another. These are not examples supplied by member companies and recited for political effect. They are, as I have said, simply the result of looking at the current Canadian tariff rates. Clearly Canadian tariffs are a check on potential American exports to Canada. If the FTA is ratified here and in Canada, all of these tariffs will be gone within ten years, many of them sooner. So, of course, will American tariffs on imports from Canada.

Tariffs and Investment. Let me add that Canadian tariffs and related policies, such as Canada's creative use of duty drawback schemes, have affected the nature of production in the two countries as well as the trade flows between them. Canada is not only our most important trading partner, she has also been the recipient of more U.S. investment than any other country. Many, if not most, of America's leading manufacturing companies have production facilities in Canada. That in itself is not a problem. The problem is that the facilities on both sides of the border are less efficient, less competitive, than they could be precisely because their establishment and operations have been too strongly influenced by tariffs and other governmentally-imposed market distortions.

In this connection, it may be worth recording the results of a small membership survey we did in the summer of 1986. Almost all of the respondents indicated an interest in tariffs. Ninety percent said that their companies would benefit from the elimination of all Canadian and U.S. trade barriers on their products. Further, several respondents said they believed that free trade between the United

States and Canada would lead to an increase in investment in both countries.

As the members of the Committee are aware, the promised tariff reductions are scheduled to take place in three stages. Some will be eliminated as of January 1, 1989, which is the date that the FTA is to go into effect. Some will be eliminated over a five year period and some over a ten year period. In addition, however, the agreement specifically allows for the more rapid elimination of tariffs where the two countries can agree that this would be in the interest of both. We hope, and have reason to believe, that in more than one area of interest to NAM members tariffs may actually be reduced more quickly than is called for under the timetables of the agreement.

INVESTMENT AND THE FTA

The mere fact that there is an investment provision to the FTA is in itself very significant. I cannot be certain how the members of the National Association of Manufacturers would have responded had we been forced to pass judgment on an agreement without an investment chapter. In the early days of the FTA talks, this is just the kind of agreement Canada had in mind, i.e., an agreement that did not deal with investment. As much as we value the prospect of a tariff-free border between the United States and Canada, my guess is that we would have had great difficulty supporting an agreement which was silent on investment--not with over $50 billion of U.S. investment in Canada. In some important respects, trade and investment are interdependent economic phenomena. Certain objectives, e.g., open markets, cannot be achieved in the absence of appropriate policies and appropriate disciplines in both areas. U.S. companies that operate in Canada would have found little merit in an agreement that took away the constraints of tariffs only to allow others to be added in the investment area later.

As a result of the FTA, Canadian investment policy is now formally tied to its trade policy, especially where the United States is concerned. Once the agreement is in place, it will not be possible for a Canadian government to alter its investment policies vis-a-vis U.S. companies without jeopardizing the commercial advantages Canada receives under the agreement.

Significant as this is, the agreement does more. Once it is fully implemented, there will be no discrimination in Canada against U.S. firms operating there. This is the national treatment provision. In addition, there will be no review by Investment Canada of either indirect acquisitions or wholly new, greenfield plants. The threshold for review of direct acquisitions will rise from the current $5 million Canadian to $150 million Canadian, adjusted for changes in Canadian GDP. Further, though forced divestitures will still be allowed in the cultural area, the Canadian government has an obligation under the agreement to pay full market value for the assets so divested.

Are we satisfied with these changes? It depends. If the question relates to the system NAM members would like the Canadian government to adopt, the answer is no. If, however, the question is whether we see this as, not only an improvement, but the best improvement we are likely to get in the foreseeable future, the answer is yes.

ENERGY & SECURITY

More than anything else, the energy provisions of the agreement are about security, security of access to markets and security of access to supplies. Some of the members of the National Association of Manufacturers are energy producers. All NAM members are energy users. Some use fossil fuel feedstocks as inputs. Some require lubricating oil in large quantities. All are big users of electricity. Enhanced stability and security in the energy market is, therefore, in itself an important achievement of this agreement. Moreover, it is not unreasonable to expect that some segments of the U.S. manufacturing community will benefit by the development of projects made more likely by this agreement, e.g., oil and gas exploration off the coast of Newfoundland.

DISAPPOINTMENTS

Exchange rates. As I indicated above, most of the provisions of the agreement are positive to one extent or another. That is not to say, however, that there were no disappointments. There were. Perhaps

the most important was the failure of the negotiators to include a consultation provision on exchange rates. The severe exchange rate misalignments of the last 15 years contributed more than anything else to the dramatic deterioration of the U.S. trade account in the 1980s. Presumably, we in the United States have learned that trade flows are strongly influenced by exchange rates and the corollary that exchange rate relationships are important.

Intellectual property rights. We had also hoped that the agreement might contain a chapter on intellectual property rights. While we are disappointed that such a chapter was not included, there are offsetting considerations. Two important U.S.-Canadian disputes over intellectual property rights issues were resolved during the period in which the FTA was being negotiated, and both countries have agreed to work together toward a meaningful GATT agreement on international treatment of intellectual property rights. We are encouraged by these developments, for in fact, in this area, a GATT agreement may be more important than a chapter in the FTA.

Subsidies. At the start of the negotiations, it had been our hope that the negotiators might have achieved new understandings on the use of subsidies and their effects on trade. In some limited respects they did, particularly in the agricultural area. In general, however, a breakthrough on subsidies was not possible in the time available. We are hopeful that the U.S. and Canadian negotiators will have more success in this area in the next five to seven year in the course of the negotiations envisaged by the agreement. Given the political sensitivity of the issues involved, both governments should realize that there will need to be an informed public debate as well as official negotiations over the issues of permissible and impermissible subsidies. If this work is undertaken in good faith on both sides, new understandings should be possible.

Dispute settlement. I have mentioned our disappointment at the failure to harmonize U.S. and Canadian laws in the antidumping and countervailing duty areas. I should add that, insofar as the current agreement is concerned, we are satisfied with the dispute settlement procedure that has been worked out for these areas. This does not mean, however, that we would be content to see such a dispute

settlement procedure duplicated in other bilateral agreements. We would not. The special circumstances of the U.S.-Canadian relationship, the similarity of trade law in both countries, and the shared heritage of English common law and jurisprudence make this dispute settlement arrangement sui generis.

CONCLUSION

Mr. Chairman, everyone concerned with this issue recognizes that the FTA is a major political issue in Canada and a complicated one. It is not for NAM to comment on Canadian domestic politics. Our job is to ensure that you in the Congress know the views of American manufacturers on this agreement, that you know that we think it should be approved. As a practical matter, however, we want to see the agreement not only formally approved but genuinely accepted in both countries. In our opinion that is more likely to be the result in Canada if the Congress acts quickly and decisively to approve the agreement before the summer recess.

Since I have raised the issues of history and Canadian politics, I should like to close with a reference to the 1911 attempt to reach a free trade agreement between the United States and Canada. That effort was defeated at the polls in Canada with the slogan "no truck nor trade with the Yankees." In today's world, neither country can avoid trade. What we are trying to do is improve the rules governing it and the conditions under which it takes place. Canada deserves considerable credit for the intellectual and political burden her leaders have borne for the sake of these improvements.

Yet there was a thought expressed in connection with the 1911 exercise that is still relevant. It comes from President Taft's message to the Congress. Dated January 26, 1911, the message said in part:

> The guiding motive in seeking adjustment of trade relations between two countries so situated geographically should be to give play to productive forces as far as practicable, regardless of political boundaries.

We in the NAM agree, and we believe that the agreement before Congress takes a giant step in that direction. Thank you.

ACTE/CAN MEMBERS
as of April 19, 1988

ABC Custom Cedar Homes, Inc.	Sonoma, CA
ADC Telecommunications	Bloomington, MN
AT&T	New York, NY
A-C Brake Co., Inc.	Louisville, KY
A.T. Cross Company	Lincoln, RI
ADAPSO	Arlington, VA
ALCOA	Pittsburgh, PA
AMCA International Corporation	Hanover, NH
Aaonton Group, Inc.	Plano, TX
Action Associates	Bloomington, MN
Aetna ife and Casualty Company	Hartford, CT
Aerosp ce Industries Association of A erica, Inc.	Washington, DC
Afro/E panic-American Chambers of Commerce	Bossier City, LA
Air Co itioning and Regrigeration Institute	Arlington, VA
Air Co itioning Contractors of America	Washington, DC
Alaska uality Control & Technical Services, Ltd.	Anchorage, AK
Albert eisler Machine Corporation	Mohnton, PA
Alderf & Herm	Denver, CO
Allied Signal International, Inc.	Morristown, NJ
Allis Chalmers Corporation	West Allis, WI
Almer: Overseas, Inc.	Destin, FL
Alpha Research, Inc.	Glendale, WI
Alumax, Inc.	San Mateo, CA
Amana Refrigeration, Inc.	Amana, IA
Amatos, Inc.	Middletown, CT
Ambler Organizational Consultants, Inc.	Cherry Hill, NJ
Amera e C poration	Hackettstown, NJ
Amerex Corporation	Trussville, AL
American Association of Exporters & Importers	New York, NY
American Association of Meat Processors	Elizabethtown, PA
American Business Conference	Washington, DC
American Cast Metals Association	Des Plaines, IL
Americ n Council of Independent Laboratories	Washington, DC
Americ n Electronics Association	Washington, DC
American Express Company	New York, NY
American Federation of Small Business	Chicago, IL
American Frozen Food Institute	McLean, VA
American Furniture Manufacturers Association	Washington, DC
American Gas Association	Arlington, VA
Americ n Institute of Marine Underwriters	New York, NY
Americ n Institute of Small Business	Minneapolis, MN
Americ n Meat Institute	Rosslyn, VA
Americ n Newspaper Publishers Association	Washington, DC
American Paper Institute	New York, NY
American Retail Federation	Washington, DC
American Street Corridor Business Association	Philadelphia, PA
American Trucking Association	Alexandria, VA
Americas Society	New York, NY
Amigo Sales, Inc.	Bridgeport, MI
Amoco Corporation	Chicago, IL
Andersons	Maumee, OH
Archer Daniels Midland	Decatur, IL
Armtek Corporation	New Haven, CT
Arthur Andersen & Company	Chicago, IL
Arthur Young	New York NY
Artmor Plastics Corporation	Cumberland, MD
Associated Builders & Contractors	Washington, DC
Associated Lumber Industries, Inc.	Carbondale, IL
Association of Collegiate Entrepreneurs	Wichita, KS
Atlantic Council Canada Group	Washington, DC
Augat, Inc.	Mansfield, MA
Austad's	Sioux Falls, SD
Avon Products, Inc.	New York, NY

B.F. Goodrich Company	Akron, OH
BP America, Inc.	Cleveland, OH
Babcock & Wilcox Company	New Orleans, LA
Baker Service Tools	Houston, TX
Baldor Electric Company	Fort Smith, AR
Ball Corporation	Muncie, IN
Ball Publishing Company	Arcanum, OH
Bank of America	San Francisco, CA
Barnes Group, Inc.	Bristol, CT
Barrett Trailers, Inc.	Oklahoma City, OK
Barrios Technology, Inc.	Houston, TX
Barrister Information Systems Corporation	Buffalo, NY
Bearings, Inc.	Cleveland, OH
Beckman Instruments, Inc.	Fullerton, CA
Bemis Manufacturing Company	Sheboygan Falls, WI
Bend Photo Center, Inc.	Bend, OR
Bernard R. Horn Company	Folcroft, PA
Better Business Bureau of Maricopa County	Mesa, AZ
Black & Decker Corporation	Towson, MD
Blair Cartage, Inc.	Newbury, OH
Blatt's Bakery	Put-in-Bay, OH
Boeing Company	Seattle, WA
Boise Cascade Corporation	Boise, ID
Bowes Manufacturing, Inc.	Solon, OH
Bristol-Myers Company	New York, NY
Broadax Company	Williamsport, PA
Brooklyn Union Gas Company	Brooklyn, NY
Brown Capital Management, Inc.	Baltimore, MD
Brown Deer Bank	Brown Deer, WI
Brown-Forman Corporation	Louisville, KY
Buffalo Forge Company	Buffalo, NY
Buffalo News	Buffalo, NY
CF Industries	Long Grove, IL
CPC International, Inc.	Englewood Cliffs, NJ
Calvert Gallery	Washington, DC
Carbis Walker & Associates	Butler, PA
Cargill, Incorporated	Minneapolis, MN
Carlton Group	Richmond, VA
Carolina Freight Carriers Corporation	Cherryville, NC
Cass County Abstract Company	Fargo, ND
Castle Systems, Inc.	Cleveland, OH
Caterpillar, Inc.	Peoria, IL
Champion International Corporation	Stamford, CT
Charles Beck Machine Corporation	King of Prussia, PA
Charles F. McAfee Architects Engineer Planners	Wichita, KS
Charter Medical Corporation	Macon, GA
Chattahoochee Business Group	Marietta, GA
Chicago Barter Corporation	Lombard, IL
Chicone Groves	Orlando, FL
Christy's	Ellwood City, PA
Chrysler Corporation	Highland Park, MI
Citicorp	New York, NY
Citizens for a Sound Economy	Washington, DC
Citizens for the U.S.-Canada Free Trade Pact	Washington, DC
Clark Seals, Ltd.	Tulsa, OK
Claseman Management Services	St. Paul, MN
Climatic Control Company, Inc.	Milwaukee, WI
Coalition of Service Industries, Inc.	Washington, DC
Coca Cola Company	Atlanta, GA
Colborn's	Billings, MT
Coleco Industries, Inc.	West Hartford, CT
Collectors Guild Ltd.	Wilmington, NC
Columbia Chocolates By Mordens	Astoria, OR
Comdisco, Inc.	Rosemont, IL
Commercial Design Consultants	Milwaukee, WI
Committee for Small Business Exports	Aspen, CO
Comp-U-Card International, Inc.	Stamford, CT
Competition Cams, Inc.	Memphis, TN
Competitive Enterprise Institute	Washington, DC

Computer & Business Equipment Manufacturers Association	Washington, DC
Computer & Communications Industry Association	Washington, DC
Conco Systems, Inc.	Verona, PA
Concor Engineering, Inc.	Richmond, CA
Concor , Inc.	Fargo, ND
Consol idated Freightways, Inc.	Menlo Park, CA
Contac Systems Corporation	New York, NY
Contr Data Corporation	Minneapolis, MN
Coope Industries, Inc.	Houston, TX
Coope & Lybrand	New York, NY
Copyri ht Clearance Center	Salem, MA
Creati e Management Concepts	Reading, PA
Curtis Circulation Company	Hackensack, NJ
Custo Engineering, Inc.	Englewood, CO
D&M C. sulting & Brokerage, Inc.	Marshfield, WI
D-M-E ompany	Madison Heights, MI
Dawg vers & Company	Jesup, GA
Deeri Lumber, Inc.	Biddeford, ME
Desig & Manufacturing Corporation	Connersville, IN
Di-Re Services	Dallas, TX
Disti ed Spirits Council of the U.S., Inc	Washington, DC
Dolla Power Discount Store	San Francisco, CA
Dolph Photo Center, Inc.	Bend, OR
Donaldson Company, Inc.	Minneapolis, MN
Dow Chemical, U.S.A.	Midland, MI
Dow Corning Corporation	Midland, MI
Dunkin' Donuts Incorporated	Randolph, MA
E. I. du Pont de Nemours & Company	Wilmington, DE
E. J. Kearney & Company	Portland, ME
E. R. Clarke Associates, Inc.	Lake Forest, IL
Eastern Building Material Dealers Assoc.	Media, PA
Eastman Kodak Company	Rochester, NY
ERA Steel Construction Corp.	White Plains, NY
Echlin Corp.	Branford, CT
Eclipse, Inc.	Rockford, IL
Econocorp, Inc.	Randolph, MA
Elbert Bradshaw Enterprises	Carmel, IN
Electro Rent Corporation	Santa Monica, CA
Ellett Brothers	Chapin, SC
Emergency Committee for American Trade	Washington, DC
Enerco Technical Products, Inc.	Cleveland, OH
Equita e Financial Companies	New York, NY
Ernst & hinney	New York, NY
Esselte Business Systems, Inc.	Garden City, NY
Event Specialists, Inc.	Anchorage, AK
Execut e Report	Pittsburgh, PA
Exxon orporation	New York, NY
FMC Co poration	Chicago, IL
Fairchild Industries	Chantilly, VA
Fila Associates	Miami, FL
Firestone Tire & Rubber Company	Akron, OH
First Bank System	Minneapolis, MN
First Boston Corporation	New York, NY
Flambeau Corporation	Baraboo, WI
Fleetwood Enterprises, Inc.	Riverside,CA
Flint Industrial Services	Albany, GA
Focus Electronics, Inc.	Brooklyn, NY
Ford Motor Company	Dearborn, MI
Fort Howard Paper Company	Green Bay, WI
Fraser Paper, Limited	Madawaska, ME
Fred Jones Manufacturing Company	Oklahoma City, OK
Free Press Media Group	Hendersonville, TN
Fuqua Industries, Inc.	Atlanta, GA
Fur Vault, Inc.	New York, NY
G.D. Searle & Company	Chicago, IL
Garrett Corporation	Torrance, CA

Gatherings South, Inc.	Greenville, SC
Gene Boyer & Associates, Inc.	Beaver Dam, WI
Genentech, Inc.	S. San Francisco, CA
General Dynamics Corporation	St. Louis, MO
General Electric Company	Fairfield, CT
General Motors Corporation	Detroit, MI
General Public Utilities Corporation	Parsippany, NJ
Georgia-Pacific Corporation	Atlanta, GA
Gerber Industries, Inc.	St. Peters, MO
Glowacki Everhardt & Association, Inc.	Toledo, OH
Goldman Sachs	New York, NY
Goodyear Tire & Rubber Company	Akron, OH
Gorman-Rupp Company	Mansfield, OH
Grand Trunk Western	Detroit, MI
Greater Newark Chamber of Commerce	Newark, NJ
Gregory Manufacturing Co., Inc.	Jackson, MS
Griffin Agency	Prospect, PA
Grit Publishing Company	Williamsport, PA
Grumman Corporation	Bethpage, NY
HMA International Business Development, Ltd.	Greensboro, NC
Half Price Books, Inc.	Dallas, TX
Hamilton Beach, Inc.	Waterbury, CT
Harodite Finishing Co., Inc.	North Dighton, MA
Hart Mountain Corporation	Harrison, NJ
Heat - Timer Corporation	Fairfield, NJ
Helene Curtis Industries	Chicago, IL
Hercules, Inc.	Wilmington, DE
Hercules Engines, Inc.	Canton, OH
Herrmodifier Company, Inc.	Lancaster, PA
Hevi-Haul International Limited	Butler, WI
Hexagon Architecture Group Limited	Wyncote, PA
High-Tech International	Beltsville, MD
Hill Associates	Madison, WI
Hoffman Air & Filtration Systems	East Syracuse, NY
Holiday Corporation	Memphis, TN
Hollman Child Development Centers	Hampton, VA
Honda North America	Torrance, CA
Honeywell, Inc.	Minneapolis, MN
Hoover Company	North Canton, OH
Horizon Resources Corporation	York, PA
Hotwatt, Inc.	Danvers, MA
Hunt Tractor, Inc.	Louisville, KY
ITT Corporation	New York, NY
ITBR, Inc.	Austin, TX
Illinois Lumber & Material Dealers Assoc.	Springfield, IL
Illinois Small Businessmen's Assoc.	Chicago, IL
Image Express	Southfield, MI
Imperial Schrade Corporation	New York, NY
Impressive Advance & Litho, Inc.	Waynesboro, VA
Inco International, Inc.	Pittsburgh, PA
Independent Bakers Association	Washington, DC
Industrial Commission of Arizona	Mesa, AZ
Industrial Heating Equipment Association	Arlington, VA
Infoscrific/Hexter & Associates	Cleveland, OH
Ingersoll-Rand Company	Woodcliff Lake, NJ
Intel Corporation	Santa Clara, CA
International Business Aviation Council, Ltd.	Washington, DC
International Business Machines Corp.	Armonk, NY
International Data Corporation	McLean, VA
International Franchise Association	Washington, DC
Interstate Electronics Corporation	Anaheim, CA
Interstate Natural Gas Assoc. of America	Washington, DC
JGP Marketing Group International, Inc.	Livonia, MI
JLG Industries, Inc.	McConnellsburg, PA
Jack Connor's Quality Beef 'N Seafood	Bridgewater, NJ

Johnson & Higgins	New York, NY
Johnson & Johnson	New Brunswick, NJ
Jon Holtshopple & Associates	Madison, WI
Judith E. Meador	St. Louis, MO
Justin Boot Company	Fort Worth, TX
Katy Industries, Inc.	Elgin, IL
Kentucky Manufacturing Company	Louisville, KY
Kerr-Hays Company	Ligonier, PA
Kimball Physics, Inc.	Wilton, NH
Kingsbury Machine Tool Corporation	Keene, NH
Knape & Vogt Manufacturing Company	Grand Rapids, MI
Knoll International Holdings, Inc.	New York, NY
Koch Industries	Wichita, KS
Koest r Corporation	Defiance, OH
Kraf Inc.	Glenview, IL
Krug ff Company	Naperville, IL
L.R. elson Corporation	Peoria, IL
LC Te nnologies, Inc.	Fairfax, VA
Lafar e Corporation	Washington, DC
Lamanite Enterprises Corporation	Clearfield, UT
Lancaster Laboratories, Inc.	Lancaster, PA
Laramy Products Company	Lyndonville, VT
Lavelle Aircraft Company	Philadelphia, PA
Lear Jet Corporation	Wichita, KS
Lee, Theisen & Stegall	Phoenix, AZ
Lenn x Industries, Inc.	Dallas, TX
Lewi Ranches	Portland, OR
Lin- t, Ltd.	Arlington Heights, IL
Litton Industries	Woodland Hills, CA
Longyear Company	Minneapolis, MN
Louisiana Association of Business and Industry	Baton Rouge, LA
Louis ana Retailers Association	Baton Rouge, LA
Loui ille Plate Glass Company	Louisville, KY
Lowe s Companies, Inc.	North Wilkesboro, NC
Luke s, Inc.	Coatesville, PA
Lumbermen Associates, Inc.	Philadelphia, PA
M. Brown & Sons, Inc.	Bremen, IN
M. S. Hansson, Inc.	Boulder, CO
MDB, nc.	Pittsburgh, PA
Mack rucks Inc.	Allentown, PA
Macmi lan, Inc.	New York, NY
Maide form, Inc.	New York, NY
Maine Machine Products Company	South Paris, ME
Maine Wild Blueberry Company	Machias, ME
Manuf ctured Buildings Components, Corp.	East Lansing, MI
Manu cturers Hanover Trust Co.	New York, NY
Marc Wood Products	Walled Lake, MI
Marc et Coleman Associates	Hinsdale, IL
Mark ing Communications Systems	Portland, OR
Mark s Abroad, Inc.	Miami, FL
Marr tt Corporation	Washington, DC
Mars & McLennan, Inc.	New York, NY
Mars ll & Associates	Topsfield, MA
Mary ay Cosmetics	Dallas, TX
Mattel, Inc.	Hawthorne, CA
Mayflower Transit, Inc.	Indianapolis, IN
Maytag Corporation	Newton, IA
McIntosh, Inc.	Norfolk, NE
McLaurin Parking Company	Raleigh, NC
McMinnville City Sanitary Service, Inc.	McMinnville, OR
Measurex Corporation	Cupertino, CA
Mel Boldt & Association	Mt. Prospect, IL
Mentholatum Company	Buffalo, NY
Merck & Co., Inc.	Rahway, NJ
Metal Treating Institute	Jacksonville Beach, FL
Metropolitan Life Insurance Company	New York, NY
Mid-Continent Cold Storage Company	Omaha, NE
Milba Corporation	Chagrin Falls, OH

Mille: Picking Corporation	Johnsontown, PA
Minnesota Mining & Manufacturing Company (3M)	St. Paul, MN
Mobil Oil Corporation	New York, NY
MonAr< Boat Company	Monticello, AR
Monsa:to Company	St. Louis, MO
Morgan Guarantee	New York, NY
Morto: Buildings, Inc.	Morton, IL
Mosba her Energy Company	Houston, TX
Moser Bag & Paper Company	Cleveland, OH
Mosle: International	Hamilton, OH
Motor Vehicle Manufacturers Association	Detroit, MI
Murph: Oil Corporation	El Dorado, AR
N. J. Chapter - National Association of Women Business Owners	Cherry Hill, NJ
NVRyan	McLean, VA
Nalco Chemical Company	Naperville, IL
National American Wholesale Grocers Association	Falls Church, VA
National Association of Beverage Importers, Inc.	Washington, DC
National Association of Home Builders	Washington, DC
National Association of Manufacturers	Washington, DC
National Association of Photographic Manufacturers	Harrison, NY
National Association of Printing Ink Manufacturers	Harrison, NY
National Association of Women Business Owners	Chicago, IL
National Federation of Independent Business	Washington, DC
National Foreign Trade Council	New York, NY
National Frame Builders Association	Kansas, City, MO
National Grange	Washington, DC
National Gypsum Company	Dallas, TX
National Hispanic Business Association	Chamblee, GA
National Lumber & Building Materials Dealers Association	Washington, DC
National Machine Tool Builders Association	McLean, VA
National Retail Merchants Association	Washington, DC
National Small Business United	Washington, DC
National Starch & Chemical Corporation	Bridgewater, NJ
National-American Wholesalers Grocers' Association	Washington, DC
Nestle Enterprises, Inc.	Solon, OH
New England Council, Inc.	Boston, MA
New England Electric System	Westborough, MA
New Jersey Small Business Unity Council	Little Silver, NJ
Newlyweds Foods, Inc.	Chicago, IL
Nicholson, Inc.	Helena, MT
Norstar Bank	Buffalo, NY
North Haven Gardens	Dallas, TX
Northeastern Retail Lumbermen's Association	Rochester, NY
Northland Corporation	Greenville, MI
Northwest River Supplies, Inc.	Moscow, ID
O'Brien Communications	Del Mar, CA
Oakes & McClelland Company	Greenville, PA
Oakwood Markets, Inc.	Kingsport, TN
Occidental Chemical Corporation	Dallas, TX
Ogilvy & Mather International	New York NY
Oneida Ltd.	Oneida, NY
PC Etcetera	New York, NY
PII Affiliates, Ltd.	Manchester, PA
PLM Companies, Inc.	San Francisco, CA
PMI/Taylor Advertising	Columbus, OH
PPG Industries, Inc.	Pittsburgh, PA
Pacer Systems, Inc.	Billerica, MA
Pacific Interstate Company	Los Angeles, CA
Pacific Northwest International Trade Association	Portland, OR

Panhandle Eastern Corporation	Houston, TX
Paragon Electric Company, Inc.	Two Rivers, WI
Parlette Tire Co., Inc.	Erie, PA
Peat Marwick Main & Company	New York, NY
Pennwalt Corporation	Philadelphia, PA
People to People Associates	Lexington, MA
Pepsi-Cola International	Somers, NY
Perham Egg, Inc.	Perham, MN
Perlis Truckstops	Cordele, GA
Pet Incorporated	St. Louis, MO
Pfizer, Inc.	New York, NY
Pharmaceutical Manufacturers Association	Washington, DC
Phillips Industries, Inc.	Dayton, OH
Pickett Parts, Inc.	Fresno, CA
Pillsbury Company	Minneapolis, MN
Plabell Rubber Products, Inc.	Toledo, OH
Plasma Energy Corporation	Raleigh, NC
Plasco, Inc.	Woburn, MA
Ply*Gem Industries, Inc.	New York, NY
Polaris Industries, Inc.	Minneapolis, MN
Polaroid Corporation	Cambridge, MA
Power Tax, Inc.	Columbus, OH
Pratt & Lambert	Buffalo, NY
Pre-Paid Legal Services	Ada, OK
Precision Twist Drill Company	Crystal Lake, IL
Price Company	San Diego, CA
Principal Financial Group	Des Moines, IA
Prinova Co., Inc.	San Francisco, CA
Printing Industries of America	Arlington, VA
Procter & Gamble	Cincinnati, OH
Product Development Corporation	Little Rock, AR
Professional Service Corporation	Green Bay, WI
Professional Wealth Management, Inc.	Asheville, NC
Professional Women in Construction & Allied Industries	White Plains, NY
Progressive Management Enterprises, Ltd.	St. Louis, MO
Pulp & Paper Machinery Manufacturers' Association	Washington, DC
Queen Carpet Corporation	Dalton, GA
Queen City Industries, Inc.	Piqua, OH
Quick, Finan & Associates, Inc.	Washington, DC
Quill Corporation	Lincolnshire, IL
Quillen Group	Groton, CT
R. R. Accessories, Inc.	Boston, MA
R. R. Donnelley & Sons Company	Chicago, IL
RJR Nabisco	Atlanta, GA
Radio KDNO	Delano, CA
Ramada, Inc.	Phoenix, AZ
Raytheon Company	Lexington, MA
Recognition Equipment, Inc.	Dallas, TX
Recon/Optical, Inc.	Barrington, IL
Rexnord, Inc.	Brookfield, WI
Rheem Manufacturing Company	New York, NY
Ridenour & Associates	Chicago, IL
Riordan, Crivello, Carlson & Menthkowski	Milwaukee, WI
Roll-o-Matic, Inc.	Kansas City, MO
Rooney, Plotkin & Willey	Providence, RI
Rorer International Pharmaceuticals	Fort Washington, PA
Rotron Engineering Company, Inc.	Woburn, MA
Rubber Manufacturers Association	Washington, DC
Rudolph Beaver, Inc.	Waltham, MA
Rural Gravuce Services, Inc.	Madison, WI
Russ Berrie and Company, Inc.	Oakland, NJ
S. C. Johnson & Son, Inc.	Racine, WI
SNC Manufacturing Company	Oshkosh, WI
Sabre Yachts	South Casco, ME
Safeway Stores, Inc.	Oakland, CA

Samsonite Corporation	Denver, CO
Sandmeyer Steel Company	Philadelphia, PA
Sargent-Welch Scientific Company	Skokie, IL
Scientific-Atlanta, Inc.	Atlanta, GA
Scott Paper Company	Philadelphia, PA
Sears Roebuck and Company	Chicago, IL
Shaw Pidge & Company	Stamford, CT
Shell Oil Company	Houston, TX
Sheridan & Fritz, P.C.	Harrisburg, PA
Silicon Six, Inc.	Santa Clara, CA
Simplex Time Recorder Company	Gardner, MA
Singer Company	Stamford, CT
Singer Lewak, Greenbaum & Goldstein	Los Angeles, CA
Smada, Inc.	Phoenix, AZ
Small Business Foundation of America	Boston, MA
Small Business Hawaii, Inc.	Honolulu, HI
Small Business United of Missouri	St. Louis, MO
Smaller Business Associates of New England	Boston, MA
Smaller Manufacturers Council	Pittsburgh, PA
Smith Barney, Harris, Upham & Co., Inc.	New York, NY
Smith Rollinson	Alexandria, VA
Snyder General Corporation	Dallas, TX
Southern Connecticut Gas Company	Bridgeport, CT
Spacesaver Corporation	Fort Atkinson, WI
Specialized Carriers & Rigging Association	Alexandria, VA
Square One, Inc.	Madison, WI
Squibb Corporation	Princeton, NJ
Sta-Rite Overseas Corporation	Milwaukee, WI
Stackpole Corporation	Boston, MA
Standard-Thomson Corporation	Waltham, MA
Stemco, Inc. Truck Products	Longview, TX
Steiner Shipyard, Inc.	Bayou La Batre, AL
Stiegler, Inc.	Fargo, ND
Stone & Webster Engineering Corporation	Boston, MA
Storage Technology Corporation	Louisville, CO
Stripling-Blake Building Lumber Co., Inc	Austin, TX
Sun Electric Corporation	Crystal Lake, IL
Superior Technical Ceramics Corporation	St. Albans, VT
Syntex Corporation	Palo Alto, CA
T&H Building Supply	Redwood City, CA
TAPJAC Home Centers	Carthage, MO
TRW, Inc.	Cleveland, OH
TVI Creative Specialists	Washington, DC
Tandem Computers Incorporated	Cupertino, CA
Tandy Brands, Inc.	Fort Worth, TX
Tandy Corporation	Fort Worth, TX
Tanner Systems, Inc.	Sauk Rapids, MN
Tatum Enterprises	Honolulu, HI
Technivest, Inc.	South Bend, IN
Ted Grob Sales, Inc.	Grafton, WI
Telemarketing Company	Chicago, IL
Tenneco Gas Pipeline Group	Houston, TX
Termiflex Corporation	Merrimack, NH
Terry Neese Personnel Services	Oklahoma City, OK
Texas Industries, Inc.	Dallas, TX
Textron, Inc.	Providence, RI
Thomas J. Seitz Co., Inc.	Racine, WI
Tingley Systems, Inc.	San Antonio, FL
Toledo Harbor Warehousing, Inc.	Toledo, OH
Touche-Ross	New York, NY
Tracor, Inc.	Austin, TX
Trail King Industries, Inc.	Mitchell, SD
TransTech, Inc.	East McKeesport, PA
Tri-M Corporation	Kennett Square, PA
Triangle Research Development Corp.	Research Triangle Park, NC
Trinity Industries, Inc.	Dallas, TX
Trouble Shooters, Inc.	Omaha, NE

Truck Trailer Manufacturers Association	Alexandria, VA
Trucking Services, Inc.	Dearborn Heights, MI
U.S. Axle, Inc.	Pottstown, PA
U.S. Bearings & Drives of CA, Inc.	Santa Clara, CA
U.S. Chamber of Commerce	Washington, DC
U.S. Council for International Business	Washington, DC
USG Corporation	Chicago, IL
Ultrasystems, Inc.	Irvine, CA
Unilever United States, Inc.,	New York, NY
United Fresh Fruit & Vegetable Association	Alexandria, VA
United Illuminating Company	New Haven, CT
United Industries, Inc.	Wichita, KS
Upjohn Company	Kalamazoo, MI
Valspar Corporation	Minneapolis, MN
Vanport Manufacturing, Inc.	Boring, OR
Village Green	Midland, MI
Virco Manufacturing Corporation	Torrance, CA
Vocational Rehabilitation Associates, Inc.	Eugene, OR
W.H. Brady Company	Milwaukee, WI
W.R. Grace & Company	New York, NY
WIS, Inc.	Toledo, OH
Wainoco Oil Corporation	Houston, TX
Waldorf Corporation	St. Paul, MN
Wayer Corporation	Landover, MD
Western Publishing Company, Inc.	Racine, WI
Weyerhaeuser Company	Tacoma, WA
Whale Scientific, Inc.	Commerce City, CO
Whirlpool Corporation	Benton Harbor, MI
White Plains Iron, Inc.	New York, NY
Wholesale Florists & Florist Suppliers of America	Arlington, VA
Will-Burt Company	Orrville, OH
William A. Price & Associates	Wheaton, IL
William H. Taylor & Company, Inc.	Allentown, PA
Wingspread Corporation	New York, NY
Women Entrepreneurs	Lincolnwood, IL
Women Featherbone Company	Gainesville, GA
Woodhead Industries, Inc.	Northbrook, IL
Zimpro Passavant, Inc.	Rothschild, WI
ZinYe st, Inc.	Marshfield, WI

TESTIMONY OF JEFFREY L. ZELMS, PRESIDENT, THE DOE RUN COMPANY

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

CONCERNING THE

U.S. - CANADA FREE TRADE AGREEMENT

APRIL 15, 1988

Introduction

I am Jeffrey L. Zelms, President of The Doe Run Company, which is headquartered in St. Louis, Missouri. The Doe Run Company was formed as a partnership between Fluor Corporation and Homestake Mining Company on November 1, 1986, through the combination of the lead mining and smelting operations of the respective companies. It is North America's largest integrated producer of primary lead with operations for the mining, milling, and smelting of lead, all of which are located in Missouri.

The Doe Run Company is a member of the Nonferrous Metals Producers Committee and fully concurs with the position outlined by Mr. Muth. My testimony today is, thus, offered to complement that of Mr. Muth, but given in the context of The Doe Run Company.

Free Trade Must Be Fair Trade

Let me make clear at the outset that I support well-reasoned effortsto eliminate barriers to the free flow of trade and investment and to level the playing field in the international marketplace in which we compete ona daily basis. I cannot, however, support any trade agreement that reflects the view that my industry and its employees are not of a large enough consequence to be fairly accomodated in the agreement.

The proposed U.S. - Canada Free Trade Agreement fails to meaningfully address the Canadian federal and provincial subsidies of nonferrous metals mining and smelter production. These subsidies are clearly intended to increase and to ease further and more substantial penetration of the U.S. market. The agreement promises only to examine the subsidies issue over a seven-year period. There is no resolution or commitment to take meaningful action, such as imposing temporary quantitative restrictions of Canadian imports at current levels, until these subsidies are either curtailed or a refinance program is put in place with payback terms at prevailing private market rates. If history is a lesson, then the failure of our negotiaters to satisfactorily address and resolve this problem gives us no confidence that they will succeed where they previously failed. The Canadian program of federal and provincial subsidies, such as cash grants with repayment tied to unrealistically high market price, is ingrained in the Canadian economic development program. Consequently, I would venture to say that it would be extemely difficult politically for the Canadians to reverse these commitments, because they are couched as creating more jobs and expanded market opportunities, particularly in the Canadian export market of which the U.S. is a major target.

In the meantime, as the benefits of these subsidies take hold, U.S. producers, who are fully competitive in the world market having just emerged from the longest and deepest recession their history, would be faced with competing against the Canadian government's export expansion program for non-ferrous metals. Moreover, given the highly cyclical nature of our business, we could find ourselves in the midst of another period of depressed prices -- and once again, hanging on by our teeth, sheer grit, and the ingenuity of our people -- and, thus, highly vulnerable to price cutting by Canadian producers, enjoying the benefits of these subsidies.

91-402 0 - 89 - 7

To add insult to injury, the Agreement, at the same time, gives away the very modest tariff protection available to U.S. lead producers that provides modest offset against the subsidized Canadian production.

Finally, I am concerned that the creation of the proposed bilateral disputes resolution panel to resolve complaints against unfair trade practices will result in the loss of any meaningful remedies under U.S. law. This is because the panel -- on which Candians will also sit -- will displace the current jurisdiction of the U.S. judicial system. Down the road when the full impact of the current Canadian subsidies is felt in the U.S. market, I fear that we will find the Canadian members of the panelhaving a very difficult time adjudicating a trade action brought against their countrymen whose industry has received the substantial financial backing of its government for that very purpose.

In short, from my standpoint, our industry was one of those "give- aways" by the U.S negotiaters -- a result with which we cannot agree. Consequently, from our perspective, there is nothing "free" in the Agreement, because we believe there is great potential "cost" to us.

The Costs to The Doe Run Company

In 1987, annual domestic production of lead was approximately 1,030,000 tons of which primary production accounted for approximately 395,000 tons. Missouri accounts for over 90% of domestic primary production with Doe Run producing approximately 225,000 tons.

The Doe Run Company employs more than 1,000 people in Missouri with a 1987 payroll of $40,405,188. In addition, Missouri realised an additional $60,000,000 from purchased goods and services and taxes paid. In sum, we inject more than $100,000,000 annually directly into the economy of Missouri,

where we through our predecessor companies have operated for more than a century.

We have worked hard to achieve these results. The Members of this Subcommittee are fully aware that the mining industry has emerged in the last year from the longest and deepest recession in its history -- from 1982 - 1985 during which prices for lead (at 18 to 20 cents per pound) were a fraction of what they were during the Great Depression on a constant dollar basis. The American nonferrous metals industry has had to undergo substantial change in order to survive a market in which the prices of our products must be competitive on a world market basis. We have had to reduce our costs of production and increase the productivity of our employees -- at the unfortunate cost of jobs to many -- in order to stay in business and to keep the bulk of our workforce employed. And so has virtually every other mining company.

Moreover, it is in the course of this industry-wide renaissance that The Doe Run Company was formed from the lead operations of two companies -- a necessary reconfiguration to ensure a continuing and substantial primary industry.

Because of what we have been through and have accomplished, I take issue with this Trade Agreement. It ignores all that the U.S. industry has done to remain competitive in the world market by failing to meaningfully address the subsidies at the front-end. It must be clearly understood that the beneficiaries of these subsidies consist of world class major mining companies, which are in Doe Run's case, becoming increasingly our competitors in the U.S market. At the same time, we, like other U.S. producers, must be economically sound and competitive to survive and prosper, as should the Canadian companies. Government subsidies in the form of direct grants or

loans structured in a manner for which payment is not likely to ever occur (e.g., no payback until the commodity reaches a certain price level -- one unlikely to ever occur) are what our Canadian competitors enjoy. The Doe Run Company, as is the case with other U.S. producers, do not enjoy such governmental "benevolences."

An Example: Trail, British Columbia lead smelter.

It has been reported that the Canadian federal and provincial governments are granting this smelter a combined C$134,000,000 for modernization. We understand that these funds are being structured as "preferred shares" to be purchased by the federal and provincial governments, and are to be repaid under a Rate of Return Index, which relates to the profitability of the smelter. Any "shares left unredeemed at the end of twenty years will be cancelled", according to a "Backgrounder" on the "Canada/Cominco Memorandum of Understanding." (See attached materials.)

A substantial portion of that amount will be used to install a smelter process known as "QSL." If the Trail smelter is able to disregard the cost of money, such as 15 years at a 10% annual rate of interest, the production cost with the QSL process is approximately 50 percent of that of the conventional competing smelter, such as Doe Run's. On the other hand, if the cost of money is taken into consideration, Trail's true costs under this example would be approximately 108% of a conventional smelter like Doe Run.

This real example is intended to demonstrate that the Canadian subsidies, which are in a sense "affirmed" by the Trade Agreement inasmuch as they are effectively ignored, provide the means by which these world-class Canadian metals producers will be able to drive the price down below "true cost" levels, and because of this subsidization, to increase their share of the U.S. market. It should be noted that the U.S. import of Canadian lead

has increased from 80,000 tons in 1983 to 116,000 tons in 1986, a 45% increase in three years. As a corollary to this, these Canadian subsidized smelters gain a competitive advantage over U.S. smelters in purchasing concentrate ore for smelting and refining because they can pay more for raw materials as a result of their subsidization.

The Canadian Government Report

The Canadian government itself confirms our concerns with the Agreement in the recently released report of its Ministry of Forestry and Mines (February 2, 1988). Permit me to quote from different portions of that report:

- o "Canada's mineral and metals industry, which is heavily export oriented and already enjoys a high degree of bilateral free trade, stands to gain from the Agreement.....The following are (some of) the principal impacts of the Agreement for this sector:
  - more secure access to U.S. markets as a result of the dispute settlement mechanism;....(Note: the report's data also indicate that 76% of current Canadian exports of nonferrous metals are to the U.S.)
  - improved industry profitability when relatively low U.S. tariffs are eliminated;..." (page 1)
- o "Competitive Position. Modernization programs currently under way in lead smelting will significantly improve that sector's relative strength." (Page 16 -- this is a veiled reference to subsidies such as that to the Trail, British Columbia smelter)
- o "Trade Remedies and Dispute Settlement. ....During the course of negotiations on the Agreement, both countries devoted considerable attention to the

matter of subsidy practices for the primary sector. The Agreement does not inhibit Canada's right to support mineral development in all regions of the country." (page 21 -- this affirms that subsidies are a "hands off" item in the context of "Trade Remedies and Dispute Settlement".)

- o "New Market Opportunities. The phasing out of medium to higher level U.S. tariffs will create new market opportunities for Canadian producers and exporters of certain minerals and metals. This will lead to investment in new and expanded plants in Canada: ..refined lead," (page 26 - Note: the current U.S. tariff is quite low, i.e., the greater of 3.0% ad valorem or 1.067 cents/lb.)
- o "Conclusions ...the responsibility for determining the pace and condition of mineral exploration, development and exploitation remains with the provinces" (Page 29 - This is a second affirmation that provincial subsidies -- "conditions" -- are not affected.

Conclusion

In its present form, I cannot in good conscience support approval of this Free Trade Agreement and I strongly urge that the U.S. negotiaters be sent back to the table to negotiate meaningful concessions from the Canadians relative to subsidies. In that connection, the phaseout of our modest U.S. tariffs should not begin until Canadian subsidies have been stopped at a minimum. If all things were to be fair and equal, the terms of the Canadian subsidies should be revised to provide for meaningful payback in accordance with generally prevailing commercial financing terms.

No doubt there may be other ways of addressing these concerns and that some measure of equity relative to our concerns

can be fashioned. Although the present Agreement seems to acknowledge that no amendments will be accepted, the White House should be urged to submit corrective legislation. We are, of course, open to any meaningful alternative that can effectively deal with our concerns.

I deeply appreciate the interest of the Chairman and this Subcommittee in this matter and for the opportunity to make our concerns known to you. It is my hope that we can find a solution to this problem. If one, however, cannot be found and agreed upon, I would urge you to reject this Agreement as it is presently constituted.

Thank you.

THE
DOE RUN
COMPANY

SUITE 400
11885 LACKLAND ROAD
ST LOUIS, MO 63146-4236
TELEX 98-8554

JEFFREY L. ZELMS
PRESIDENT
314-991-7140

November 25, 1987

Senator John C. Danforth
U.S. Senate
Washington, DC 20510

Dear Senator Danforth:

I have received a letter from Ms. Margorie A. Chorlins of your staff which indicates that I could contact your office with additional information on the United States-Canada Free Trade Agreement. I want to thank you for that opportunity and to take advantage of your offer. I believe the Non-Ferrous Metals Producers' Committee is also furnishing you with some additional information.

Clearly, there is nothing "free" involved in the Agreement because, like everything else, there is a cost to someone. In this case, there is a cost to the United States mining industry. The Agreement will remove the protection of modest tariffs to our industry while both (a) allowing the Canadian mining industry to continue to receive subsidies from its

government, and (b) failing to provide a practical remedy for United States producers. This obviously puts us at a competitive disadvantage. Consequently, I believe the Senate's emphasis in its review of the Agreement should be placed on "fair" rather than "free."

Our problem is easily illustrated. It has been reported that the Canadian government will grant the Trail, British Columbia, smelter C$134,000,000 for modernization. A substantial portion of that amount will be used to install a smelting process known as "QSL." A comparison of the information contained in the enclosed chart prepared by Lurgi Corporation, the maker of the process, clearly shows the competitive disadvantage a United States smelter will have.

Although the chart is expressed in terms of German marks, the principle is the same. If Trail is able to disregard the cost of money (expressed in the chart as 15 years at 10 percent), the production cost with the QSL process is approximately 50 percent of that of the conventional smelter such as Doe Run's. If money must be taken into consideration, however, the story is entirely different. According to the Lurgi's chart, Trail's production costs would be approximately 108 percent of a conventional smelter like Doe Run which has already paid for the finance charges. The competitive advantage for the Trail smelter created by the Canadian government's subsidy is obvious.

The dispute resolution mechanism provides an additional area of concern to our mining industry because the binational dispute panel will be in a position to determine what the law of the United States is. Apparently, its decisions are not even appealable to the International Trade Court. I am unable to understand why two Canadians should be placed in a position to determine the meaning of our domestic law.

The "rule of origin" provisions of the Agreement also appears to place the subsidized Canadian smelters in a more favorable position than our smelters. It is certainly feasible for a Canadian smelter to improve its position in the market by buying concentrates produced in the United States, smelting them in Canada, and then exporting the product to the United States. Under the Agreement, this would appear to be a duty-free situation for the Canadians. A reasonable question might be, "So what is wrong with that?" This procedure would put the subsidized Canadian smelter in both the supply and demand side of the equation, that is, being able to undercut the United States smelter in the purchase of concentrates and then again being able to export its subsidized finished product into the United States to compete with United States smelters without a tariff. It is difficult to believe that national policy should encourage the United States to become potentially dependent on a foreign government's marketing strategy or its metals industry.

Furthermore, the Agreement does not clearly define some areas of this rule involving the policing of compliance with the rule. The claim for preference is based only on the written declaration of the exporter that the material meets the rule. There is no detail as to how much substantiation must be included in the exporter's declaration or what kinds of records must be maintained or even what access the United States Customs Service has to these records.

Based on the information which is available, it does not appear to me the Agreement is in the best interests of the Missouri mining industry, Missourians, or the United States; and I hope you will take whatever action you can to make the Agreement "fair" rather than "free."

Sincerely yours,

Jeffrey L. Zelms

JLZ/llm
Enclosure

cc: Senator Bond

bxc: B. Carlstrom
K. Button
R. Muth

COMMUNICATIONS

AMERICAN FARM BUREAU FEDERATION
225 TOUHY AVENUE • PARK RIDGE • ILLINOIS • 60068 • (312) 399-5700
600 MARYLAND AVENUE S.W. • SUITE 800 • WASHINGTON, D.C. • 20024 • (202) 484-2222

April 7, 1988

The Honorable Lloyd Bentsen
United States Senate
Washington, D.C. 20510

Dear Mr. Bentsen:

The American Farm Bureau Federation, the nation's largest farm organization, appreciates the opportunity to express its views on the recently signed U.S.-Canadian trade agreement.

Farm Bureau represents the interests of producers from all sectors of American agriculture. As a general farm organization we have an obligation to examine the entire agreement for its impact on all of agriculture, not just the specific commodity sector provisions. Because we are a general farm organization, we recognize there are bound to be trade-offs in such agreements. What may be viewed as an advantage to one sector may be opposed by another.

Our staff and our Farm Bureau representatives on the trade negotiation advisory committees have tracked the progress of the negotiations throughout the course of the talks. Our assessment of the package, which is attached, was provided to all of our state Farm Bureaus. The agreement was discussed by the voting delegates to our 1988 Annual Meeting, by our commodity sector advisory committees, and finally, by our Board of Directors at its meeting on March 10. We have not treated the issue lightly.

The attached paper provides a fairly detailed analysis of the agricultural portion of the trade package. We urge you to refer to this for information on specific provisions. Our overall assessment of the agreement is as follows.

Although the U.S.-Canadian pact will not result in "free trade" between the two countries in agriculture, it does take a step in that direction. It will certainly expand trade opportunities between the countries. At a time when the momentum around the world is toward closing markets, this agreement will demonstrate that the U.S. and Canada remain committed to trade expansion.

Many of the concerns being expressed by U.S. commodity groups appear to focus on expectations that did not materialize, rather than on any new problems arising from the agreement. We, too, share some disappointments about issues not addressed. With the exception of the elimination of all tariffs and several commitments to avoid certain trade actions, the agreement will not result in a significant reduction of government intervention in agricultural trade on either

side of the border. Some of the most sensitive programs (e.g. domestic subsidy arrangements) were exempted from liberalization, with the expectation that they will be handled in the multilateral trade negotiations in GATT. We agree that such programs are not negotiable bilaterally, since they cannot be modified to eliminate their trade effects for the benefit of just one other country.

We believe, however, the package is balanced and will benefit farmers on both sides of the border. For some U.S. farm products there will be a significant improvement in access to Canadian markets. This is particularly true for commodities where tariffs represent the principal form of Canadian import protection. We therefore urge ratification by Congress as an important step toward reducing trade-distorting practices in agriculture between our two countries.

Sincerely,

John Datt

John Datt
Executive Director
Washington Office

U.S.-CANADIAN TRADE AGREEMENT
Farm Bureau Analysis and Assessment

The following is an analysis of the terms of the agricultural sections of the U.S.-Canadian trade agreement signed by the two governments on January 2, 1988.

Tariffs

The most significant gains in market access by both countries will likely occur in products where tariffs alone are now used to control imports. At the end of the tariff phase out period, such commodities will, in fact, be freely traded. Most agricultural tariffs will be phased out over 10 years, although some non-sensitive products will have their tariffs phased out quicker. The U.S. will benefit from the fact that Canadian tariffs are on average slightly higher than U.S. tariffs and a mutual phase out of all tariffs will mean a relative improvement in our competitive position with respect to Canada. On the other hand, for many of the agricultural products where there is significant cross border trade, both countries' tariffs have been equalized during previous trade negotiations and, therefore, elimination of those tariffs is not likely to have a major impact on trade flows.

Obviously, the U.S. and Canada will benefit most from tariff elimination on products where one country is a more efficient producer than the other. It is difficult to estimate which producers will be adversely affected and which will be helped. Since the U.S. holds a bilateral trade surplus in the agricultural sector, exporting about $500 million more than it imports, this would suggest that, in the aggregate, U.S. agriculture will benefit at least as much and probably more than Canadian agriculture. On the other hand, reduced tariffs in the U.S. will allow somewhat greater access for Canadian producers to a market 10 times larger than their own. As always, exchange rate fluctuations will also play a role in determining competitive positions. One possible benefit from a trade agreement that would stimulate the Canadian economy might be the strengthening of the Canadian dollar in relation to the U.S. dollar.

Another positive aspect of this type of tariff-free trade agreement is that it establishes a degree of preference for U.S. and Canadian products over those of other countries. In other words, U.S. products will have a trade advantage in Canada over third country products, as will Canadian products in the U.S. market. This advantage is beneficial to both countries at the expense of neither.

Horticultural Products

The agreement to phase out tariffs will mean the elimination of all tariffs on horticultural products, including the high seasonal Canadian tariffs on a number of fresh products. Canada currently maintains such seasonal duties on imports of: vegetables - asparagus, snap beans, beets, broccoli, Brussels sprouts, cabbage, carrots, cauliflower, celery, sweet corn, cucumbers, lettuce, onions, parsley, and peas; fruits - apricots, cherries, labrusca grapes, peaches, pears, plums, raspberries, loganberries, and strawberries.

Canada will eliminate its fast-track surtax mechanism for fruits and vegetables. The U.S. had maintained that this system was contrary to the GATT. The system had been used by Canada on only one occasion because of this U.S. objection, from October 15, 1982 to March 5, 1983 when a surcharge was placed on yellow onions entering Canada west of Thunder Bay. Under the agreement, both countries will have access to a "snap back" mechanism which will allow temporary reimposition of the most-favored nation tariffs (the current tariff) if imports are disrupting the domestic market. This snap back can be utilized if two conditions are met. First, if prices for a given fresh horticultural product fall below 90 percent of the average monthly import price over the last five years (with the high and low years excluded), and second, if domestic acreage does not exceed the average of the last five years with the high and low years excluded. When those conditions occur, the importing country has the right to reimpose the normal duty after a two working day waiting period (to provide an opportunity for consultations with the other country). The temporary duty may only be applied once in any 12 month period and must be removed if the F.O.B. export price of the product exceeds 90 percent of the average price referred to above, or after 180 days. Since the snap back only reimposes the MFN duty, it would be consistent with the GATT. It would be available for virtually all fresh horticultural products except any that are already duty free. These temporary duties may be imposed on a regional basis in Canada.

Farm Bureau has supported the concept of a "fast track" import regime for fruits and vegetables using existing Section 201 provisions. Section 201 is a complicated procedure and requires the filing of a petition and submitting briefs demonstrating injury to the U.S. industry. The snap back procedure would be much quicker and would involve little input from the domestic industry. It would only reinstate current duties; it would not provide the possibility of quantitative limits on imports as exists, at least in theory, under Section 201. It would be of relatively little value during the first few years of the agreement, during which time existing duties will have been phased down only slightly under the 10 year phase out plan. The snap back mechanism will be available for 20 years. Since both countries have access to the same mechanism, there would appear to a balance in commitments on this provision. U.S. producers of several horticultural crops have sought some type of similar quick import relief from Canadian competition in recent years. However, the United States exports about 5 times more horticultural products to Canada than we import from them, which would appear to make this provision as attractive to Canada as it is to the U.S.

No agreement was reached on Canada's prohibition of consignment imports nor on U.S. marketing order import restrictions.

Grains and Oilseeds

The countries have agreed not to erect new quantitative restrictions on grain and grain products so long as there are no significant changes in the grain support programs in each country which would lead to a significant change in imports from the other country. This essentially means that the U.S. will not use Section 22 to restrict imports of grains from Canada, unless changes in support programs on either side of the border would necessitate such restrictions. Section 22 of the Agricultural Adjustment Act of 1933 allows the U.S. to impose quotas on imports if it is determined by the U.S. International Trade Commission that such imports are threatening the price support program for the domestic commodity. Section 22 protection, therefore, is only available to products on which the U.S. maintains price support programs. The U.S. obtained a special GATT waiver for the program in 1955. Since then the U.S. has reduced the number of price supported commodities for which import quotas are applied. No import controls beyond tariffs are applied in the grains sector at this time. The agreement with Canada would prevent the U.S. from resorting to quotas in the future to protect existing domestic support programs from imports from Canada. The agreement would not prevent the U.S. from utilizing Section 22 to limit grain imports from other countries. The U.S. would not be bound to the agreement, however, if either country changes its domestic programs in such a way that imports from Canada would be likely to increase and jeopardize those programs. We would urge the administration and congress to consider language in the implementing legislation that would more clearly define what type of substantial change in farm programs would allow the reimposition of import restrictions.

For its part, Canada has agreed to eliminate its import license requirement for wheat, barley, oats and products thereof, as soon as the support levels for these products in both countries become "equalized." Canadian grains are supported through marketing boards, and, with the exception of corn, imports are essentially prohibited. That prohibition is enforced by the marketing boards' refusal to grant import licences. This system allows Canada to maintain what is effectively a two price arrangement with higher domestic prices than export prices. The commitment to eliminate the import licensing system will mean increased access possibilities in Canada for U.S. grains and grain products. But this commitment is effective only at such time as U.S. and Canadian support levels for the various products are equalized. A bilateral technical group has been established to determine the relative levels of support in the two countries based on the so-called "producer subsidy equivalent" formula devised by the Organization for Economic Cooperation and Development (OECD) in Paris for use in the Uruguay Round of trade negotiations. USDA has stated that its initial assessment of the relative subsidy levels for barley and oats suggests that they may already be close to equal and that licenses might therefore be abolished soon after the agreement becomes effective. For wheat, it is unlikely that the support levels will be "equalized" any time soon and, therefore, the elimination of import licenses will apparently not occur for some time. According to calculations by USDA and Canadian officials, U.S. wheat supports -- taking into account all forms of subsidization -- remain significantly higher than Canadian wheat support levels. The combination of eliminating import licensing for the basic grains and the phase out of tariffs on processed grain products, may also help to bring about an end to the two price system in Canada, as millers and processors will have access to lower priced imported grains and grain products. We would support report language that would clarify for the record our interpretation of the agreement dealing with Canada's commitments on licensing and transportation subsidies.

The only change for corn and sorghum will be the phase out of the MFN tariffs (5 centsC/bu. for both). This will not extend to the Canadian countervailing duty on U.S. corn, which will remain in place (along with U.S. countervailing duties on various Canadian products).

Canada also agreed to eliminate its Western Grain Transportation Act (WGTA) subsidies on agricultural products shipped to the United States through western Canadian ports. This will affect primarily Canadian exports of millfeeds and rapeseed meal to the United States Pacific Northwest. This has been a source of contention between the two countries over the past four years since the subsidy program was expanded on January 1, 1984 to include the U.S. as an eligible destination through Vancouver. U.S. oilseed producers will have the most to gain from the elimination of subsidies on rapeseed meal to the U.S. No agreement was reached on transportation subsidies for products moving into eastern ports (mainly Thunder Bay). These have been in place since 1897 and could be considered "grandfathered" under the GATT when Canada joined. They, along with other subsidy programs on both sides of the border, will presumably be taken up in the Uruguay Round.

A particular concern of wheat growers may be that Canadian wheat will continue to enter the U.S. with the benefit of transportation subsidies through eastern ports, while U.S. wheat will continue to be prohibited into Canada until U.S. subsidies are reduced. In addition, the U.S. tariff on wheat, 21 cents/bushel, will be phased out over 10 years to the benefit of Canada. Canada's tariff on wheat, 12 centsC/bushel, will also be phased out, but the benefit from this will not be felt until the import licensing system is eliminated. On the other hand, the rate of reduction in the U.S. tariff of 2.1 cents per year is slow enough that the Canadian licensing system could be eliminated before the tariff is eliminated. In addition, the U.S. retains the right to utilize its countervailing duty law if the Canadian transportation subsidy begins to cause injury to U.S. wheat growers. The injury test under U.S. countervailing duty law may be viewed as less severe than the injury test under Section 22 where no unfair trade practice is involved.

Canada's import regime for rice is already relatively open with no quantitative or other non-tariff restrictions. Unmilled rice is already duty free and milled rice carries a tariff of 25 centsC/cwt., which will be phased out.

Poultry

Canada agreed to increase its global import quotas for poultry, eggs and products thereof as follows:

Chicken - to no less than 7.5 percent of the previous year's domestic production of chicken in Canada;

Turkey - to no less than 3.5 percent of that year's Canadian domestic production quota for turkey;

Eggs - to no less than 1.647 percent for shell eggs, 0.714 percent for processed eggs, and 0.627 percent for powdered eggs.

The effect of this commitment will be to permit assured access for U.S. exports of these products at a level which better reflects the actual demand for imports from the U.S. The quotas on these products are part of Canada's supply management program for poultry and were previously negotiated by the U.S. to obtain a degree of access to the Canadian market. In recent years, demand for these commodities has exceeded domestic supply and each year Canada has been forced to adjust its quotas to meet the needs of consumers. Canada's 12.5 percent import tariff on poultry meat and 3.5 centsC/dozen tariff on whole eggs will be phased out. Canada justifies its import quotas on poultry under Article XI of the GATT to protect its domestic supply management programs. As a deficit producer of poultry, Canada is not likely to ship such products to the U.S. In addition, we would oppose as contrary to Canada's GATT justification for its import quotas any increase in Canadian production that would be targeted for export.

Meat Import Laws

Both countries agreed to exempt each other from import restrictions imposed under their respective meat import laws, unless quotas are needed to prevent frustration of actions taken against imports from their countries. The U.S. Meat Import Law, after which the Canadian law is closely patterned, provides standby authority for import quotas, or voluntary restraint agreements with meat exporting countries, if the Secretary of Agriculture determines that imports are likely to exceed a trigger level. The trigger is based on a countercyclical formula that takes into account domestic production trends. The law also contains a base import level below which the U.S. cannot limit imports legally under the GATT. The products covered are beef, veal, mutton and goat meat. Live animals are not included. The two countries have applied their meat laws to each other in a pragmatic fashion over the years. In 1977-79, 1982 and 1983 Canada voluntarily restrained beef exports to the U.S. under the U.S. law, and in 1985 Canada exempted high quality U.S. beef from its import controls at U.S. request. The effect of the agreement will be to open each other's market to imports from the other without changing the restrictions on meat from all other countries. The trigger formula will therefore have to be adjusted to eliminate each country from the calculation of expected import levels. The tariffs, which had already been equalized at 2 cents per pound (beef and veal), will also be phased out. The bilateral trade balance in beef should not change significantly as a result of this agreement.

Pork

There are no quantitative controls on pork trade between the U.S. and Canada. Fresh pork and live hogs are already duty free in both countries. Prepared pork imports into Canada are subject to a tariff of 15 percent which will be phased out over 10 years. Prepared pork imports into the U.S. are currently subject to tariffs of 1 cent per pound (not boned) or 3 cents per pound (boned) or about 2 percent ad valorem, depending on the price of the product. Since the Canadian tariff is substantially higher, the phase out of tariffs by both countries will be of relatively greater benefit to the U.S. The U.S. countervailing duty on hogs will not be affected by the agreement unless the Canadians cease their subsidy practice. Future U.S. reviews of the countervailing duty on hogs could be reviewed by the bilateral dispute settlement panel to be established, but this would not occur for probably two years.

Dairy

No agreement was reached on trade restrictions maintained by the U.S. (under Section 22) and Canada on dairy products, with the exception of the phase out of tariffs by both countries. With quotas applied to most dairy imports, tariffs have only a small effect on trade flows. Canada has said that it will introduce quotas on yogurt and ice cream under Article XI of the GATT to protect its supply management program for dairy and to establish restrictions equivalent to those maintained by the U.S. We view this as contrary to the spirit of the agreement and would encourage the administration to examine the consistency of the restrictions with the GATT.

Other Section 22 Quota Commodities

U.S. import quotas on cotton, sugar, and peanuts have been excluded from the agreement. Import tariffs will be phased out by both the U.S. and Canada. A special arrangement was worked out for sweetener-containing products (see below).

Sugar-Containing Products

The United States agreed to exempt Canadian products having 10 percent or less sugar by dry weight from future U.S. quotas on sugar-containing products. Canada has been concerned about the possibility of the U.S. extending Section 22 imports controls on sugar to confectionery and other products containing substantial amounts of sugar. They sought a total exemption under the agreement but accepted an arrangement whereby Canadian products would be exempted if they contain 10 percent or less sugar. We would favor language in the implementing legislation that would require monitoring of products containing less than 10 percent sweetener to ensure that this formula is not used as a technical loophole in the quota regime.

Tobacco

Domestic subsidy programs in the U.S. and Canada were excluded from the agreement. Tariffs will be phased out by both countries.

Wine and Distilled Alcoholic Beverages

Under Canadian law, control over sales and distribution of alcoholic beverages rests with the provinces. Although Canada is the largest market for U.S. wine exports, restrictive provincial pricing and distribution regulations have caused serious problems for U.S. wine. Provincial liquor boards apply markups on wine as a means of generating revenue. These markups have always been substantially higher on imported wine than on domestic wine. Canada agreed to eliminate the discriminatory portion of its markup on wine imported from the United States. This discriminatory markup will be phased out over 7 years with a 25 percent reduction in each of the first two years followed by 10 percent reductions each year thereafter. The markup on imported wine will then be limited to the actual audited difference between the cost of service for the imported product above the cost of service for the domestic product. Canada also agreed to grant immediate "national" (nondiscriminatory) treatment to U.S. products under the liquor boards' practice of establishing lists of products eligible for sale in a given province. This listing requirement has been a major roadblock to U.S. wine exports to Canada. Canada also agreed to eliminate discrimination in the distribution of wine so that imported products are available in as many outlets as are domestic products.. These commitments, along with the phase out of tariffs on wine imports, represent a major improvement in the access possibilities for U.S. exports to Canada. This provision will also represent a major hurdle for the federal government of Canada in obtaining the approval of the provinces.

Export Subsidies

Both countries agreed not to use direct export subsidies on agricultural products shipped to each other. Both also agreed to take into account the export interests of the other in the use of any export subsidy on agricultural goods exported to third countries, recognizing that such subsidies may have prejudicial effects on the export interests of the other country. USDA officials have said that this will represent no change in current U.S. policy with regard to the Export Enhancement Program, since the U.S. only targets markets where we face subsidized competition (mainly from the EC). There is likely to be no change in trade between the two countries since neither country admits to using direct subsidies on their exports to the other country. The commitment to avoid hurting trade interests in third country markets may be viewed by Canada as having been undermined if the U.S. establishes a marketing loan regime for grains and/or oilseeds.

The two countries also agreed that their primary goal with respect to agricultural subsidies is to achieve, on a global basis, the elimination of all subsidies which distort agricultural trade. They agreed to work together to achieve this goal, including through multilateral trade negotiations such as the Uruguay Round.

Technical Barriers to Trade

The countries agreed to minimize technical barriers on agricultural, food and beverage goods. This will involve both countries' regulatory authorities cooperating to reduce technical differences which interfere with trade, while still protecting human, animal and plant health. A process of bilateral consultations between the regulatory agencies in the U.S. and Canada has already been established to iron out differences between the two countries' health and sanitary rules. At the conclusion of this process (apparently no time limit has been established) such rules and requirements would be harmonized so that neither federal nor state or provincial governments would be able to restrict trade on the basis of standards. This provision is most likely to benefit trade in products where differing national tolerances for pesticides and where disputes over animal and plant diseases have disrupted trade.

Dispute Settlement

While not strictly an agricultural issue, dispute settlement procedures are of great concern in the agricultural sector. This was the single most important negotiating item for Canada, which sought a binding arbitration panel to resolve all trade complaints. Instead, the agreement allows trade complaints to proceed through normal domestic trade procedures in each country, with access to an arbitration panel only after the domestic process has been completed. In effect, the arbitration panel would take the place of the existing judicial review by courts of trade decisions made by such bodies as the U.S. International Trade Commission. This new dispute settlement procedure will have no immediate effect on current or ongoing issues such as corn, pork, lumber or potash. It could come into play in the future, however, if these disputes were to be raised by one side or the other during the annual review of trade disputes to be conducted by the arbitration panel. This provision in the agreement does not accomplish Canada's objective of turning all bilateral trade disputes over to an independent panel. It has also raised questions in congress over the constitutionality of an international panel reviewing U.S. actions taken in accordance with domestic trade statutes.

Rule of Origin

An important element in any bilateral trade agreement is a mechanism preventing transshipments of products from third countries through one participant in the agreement to the other. This can become a problem if one country has a lower MFN tariff on a given product. Imports could enter that country, pay the lower tariff, and then move directly into the other country without paying the second county's higher tariff. There can also be problems if products are imported into one country in an unprocessed or semi-processed form and then are modified slightly to become a product of that country. A so-called "rule of origin" has been worked out by the U.S. and Canada to minimize the possibility of such occurrences. Products will not be allowed to obtain duty free access into either country unless they are produced in the other country. A given product imported from a third country will have to be "substantially transformed" within either the U.S. or Canada in order to gain status as a product of that country. For the purpose of the agreement, this will mean that

products will have to be changed to the point that the product is categorized under a completely different customs chapter within the new worldwide Harmonized System of tariff classifications. For example, orange juice processed in Canada from fresh imported oranges would be eligible for duty free import into the U.S. since the product was substantially transformed in Canada. However, imported concentrate which is simply repackaged or rehydrated would not be. In practice, this would be a problem for U.S. producers only in cases where the Canadian MFN duty on a product is significantly lower than the U.S. MFN duty for the same product. In such cases, a product would be likely to move into Canada benefiting from the lower tariff and move into the U.S. under the free trade agreement, thus circumventing the higher U.S. tariff. Since many U.S. and Canadian tariffs have been equalized and therefore will remain virtually the same on imports from other countries, this is not likely to be a major problem. Furthermore, since Canadian MFN tariffs that have not been equalized tend to be higher than U.S. tariffs, the problem of transshipments may be of greater concern to Canadian producers.

Semiannual Consultations

There was an agreement to consult semiannually on agricultural issues. The parties also agreed to consult on agricultural issues at such other times as mutually agreed.

General

The agreement, if accepted by Congress and the Canadian provinces next year, would become effective on January 1, 1989. The first tariff reductions would occur on that date, with the phaseout being completed in 1998.

Farm Bureau Assessment

First, while it is clearly our responsibility to examine each of the specific agricultural elements in the agreement, it is just as important to consider the effect of the entire package on both the agricultural sector and the U.S. economy as a whole. Agreements have been reached in virtually all sectors of the economy, including automobiles, energy, services such as insurance, investment, intellectual property such as computer software, and information, in addition to agriculture. Furthermore, agreements have been reached on such trade regulations as government procurement rules, customs laws, product standards, dispute settlement and subsidies. To the extent that these agreements will stimulate trade between the U.S. and Canada, broad based economic growth can be expected to occur to the advantage of farmers in both countries.

With respect to agriculture specifically, our assessment is that the agreement will not result in a significant dismantling of agricultural trade barriers and other forms of government intervention on either side of the border. The most sensitive products and programs were generally exempted from liberalization under the agreement, with the expectation that they will be handled in the multilateral trade negotiations in GATT. For instance, Canadian marketing boards will not be eliminated (an early U.S. suggestion) and neither will U.S. price support programs (a Canadian counter suggestion). It was agreed that such programs were not negotiable bilaterally, since they cannot be modified to eliminate their trade effects for the benefit of just the other country.

Although the agreement will not result in "free trade" between the two countries in agriculture, it does take a step in that direction. A number of commitments were negotiated that will increase market opportunities for farm products in each country. Based on a careful

examination of the agreement, we also believe it is a fairly balanced package. The U.S. could not be expected to be the total victor in the negotiation or it would not have gained Canadian acceptance -- just as a total victory for Canada would have been unacceptable to us. We recognize that the agreement did not accomplish a substantial loosening of the most restrictive trade measures in the agricultural sector in either country.

Official Farm Bureau policy on the agreement as adopted by the voting delegates to the 1988 annual meeting reads as follows:

> "The United States and Canada have completed negotiations on a bilateral trade agreement. We support the initial steps taken during the negotiations to address some of the sensitive U.S. agricultural concerns, though much remains to be handled in the Uruguay Round, particularly relating to subsidies."

The American Farm Bureau Federation Board of Directors decided on March 10, 1988 that Farm Bureau would support ratification of the agreement by Congress as a worthwhile step in the right direction for both countries.

Lastly, we disagree with the notion that the agreement should be opposed because it did not go far enough. No trade agreement ever goes far enough and no trade agreement can satisfy all interested parties. We believe this agreement will expand trade between the countries across-the-board, as well as in agriculture, and, at a time when the momentum around the world is toward closing markets, this will provide a needed demonstration that the U.S. and Canada remain committed to trade expansion. We believe the agreement can create an improved trade environment between the two countries and lead to further reductions in trade barriers as we work together in the Uruguay Round of multilateral trade negotiations.

STATEMENT ON THE U.S. CANADA FREE TRADE AGREEMENT

by

The American Institute of Architects

The American Institute of Architect appreciates the opportunity to provide the following statement concerning the U.S.- Canada Free Trade Agreement (FTA) in connection with the hearing held on this subject on April 21, 1988 by the U.S. Senate Committee on Finance. With 53,000 members the AIA is the professional association representing this nation's architects. This year we are celebrating our 131st anniversary.

The AIA urges approval of the FTA because of the important advances it provides in trade relations on architectural services between the United States and Canada. These advances cover three specific areas of concern, 1) Canadian tariffs on architectural drawings, 2) immigration regulations in both countries which restrict the exchange of services, and 3) Canadian and U.S. licensing and registration procedures.

Until recently, it has been exceedingly difficult for American architects to pursue their profession in Canada. At the same time, Canadian architects have encountered barriers to their practice in the United States, although these barriers are not nearly so difficult to surmount as those erected by Canada. In order to reduce the barriers on both sides of the border, the AIA and its Canadian counterpart, the Royal Architectural Institute of Canada (RAIC), have been working for some time to find ways to remove these obstacles. Meanwhile, the trade negotiators for each country have pursued means of easing trade restrictions on architectural services, and the product of their negotiations is contained in the recently concluded FTA. The agreement's treatment of the three areas of greatest concern to the AIA is spelled out below:

HIGH TARIFFS

The most formidable roadblock that U.S. architects have encountered in their attempts to gain access to Canadian markets has been the Canadian tariff on architectural drawings. Based on agreements worked out by the AIA and the RAIC, the Canadian government has taken steps to reduce the tariff, while the agreement would actually eliminate it.

Previously, the Canadian customs code had several alternative methods of valuation, but the preferred method had been to use the actual transaction value for imported merchandise. This resulted in an extraordinary tax. If Canadian customs determined that a "bona fide sale" of architectural drawings had occurred, they would assess the value of the drawing based upon the value of the construction project and the architectural fee. For example, applying a 10.2% rate of duty and 12% sales tax to drawings valued at $2.5 million--a 5% architectural fee on a $50 million construction project--would result in a $267,500 duty and a $335,100 sales tax, for a total tariff of $602,600.

In 1986, following agreements worked out by the AIA and RAIC, Canadian customs adopted a different method of valuation, the "processed physical medium method," where it determined that no bona fide sale of drawings had occurred. Under the processed physical medium method, the duty is based upon the value of the paper on which the drawings have been drafted plus the value of transcribing the drawings onto the paper. This method results in significantly lower duty. Revenue Canada Customs and Excise has ruled that the processed physical medium method applies "where there is no outright sale and the [drawings] are acquired free of charge or by a consideration being paid for the right to use the information."

Zealous enforcement of the tariff has also been a deterrent to the practice of architecture in Canada by U.S. architects. In several instances, architects trying to cross the border to Canada have been detained by Canadian customs for carrying architectural drawings in their cars. On at least one occasion, the

Canadian projects, due to the restrictive provincial licensing/registration requirements, they were particularly vulnerable to these procedures. Both Canadian and U.S. architects have reported occasional difficulty crossing the border if they let customs representatives know that they were entering the other country to do architectural work. This was apparently due to both Canadian and U.S. immigration law, which impose the same general restriction on foreign nationals engaging in employment in the host country. There is no procedure for architects to obtain advance ruling as to whether they will be admitted and what work they will be permitted to do. Canadian professionals have claimed that they have had greater difficulty crossing the border than U.S. professionals because of long administrative delays in granting work permits. The AIA appreciates the intent of the agreement to correct this situation. Under the agreement, qualified business persons (the definition of which includes architects), will be able to enter either country temporarily through means of a simple and fast procedure at the border. Both countries will benefit from such simpler procedures for temporary entry, while maintaining necessary protection in other instances. The AIA strongly supports the language in the signed agreement in this respect.

LICENSING/REGISTRATION

The last area where the AIA has had concern involves the licensing/registration requirements in the two countries. Requirements laid down by each Canadian province can easily prevent U.S. architects from performing all phases of design architect was interrogated by Customs officer and forced to show and explain the drawings. The officer was finally satisfied when the architect could prove that the building the drawing was describing was not related to his business in Canada, and would not be suitable for the Canadian climate. Other instances have occurred where architects have had their documents confiscated at the border and held up to two weeks, if they did not fill out the proper forms in advance. Finally, an architect from New York was called up by a Royal Canadian Mounted Policeman who had flown to New York to demand search of his office.

The AIA looks very favorably on the agreement's tariff section. Its removal of tariffs on architectural drawings would eliminate abuses and would put American

architects in the same favorable position as their Canadian counterparts. It would make it possible for American architects to compete and accept design projects in Canada to a much greater degree than previously.

IMMIGRATION REGULATIONS

U.S. architects have also encountered difficulties at the border because of an internal Canadian immigration procedure which has prohibited foreigners from entering Canada to perform consulting work. U.S. law has no comparable prohibition. Since U.S. architects were often confined to a consulting role on work in Canada. Quebec requires architects to be proficient in French, to reside in Quebec, and to be a Canadian citizen for five years in order to be licensed. Ontario and the four western provinces require architects to reside in their respective provinces in order to be the principal architect on a project.

The same complications do not exist for Canadian architects wanting to perform design work in the U.S. State licensing/registration requirements have not generally prevented Canadian architects from performing any phases of design work, even if some restrictions have applied.

Certainly, reciprocal and non-restrictive provincial licensing/registration requirements would benefit U.S. and Canadian architects alike. However, achieving this goal will not be easy due to resistance by the provinces. The FTA looks to the AIA and the RAIC to work cooperatively on this issue and to report to their respective governments by December 31, 1989. The AIA finds it encouraging that the FTA negotiators have recognized the importance of involving architects in the process of finding solutions to the question of reciprocity. The AIA is already working closely with our Canadian counterpart in the effort to reach an agreement that would maintain the high standards of practice and professional conduct in the practice of architecture in their respective countries without imposing burdensome, unnecessary requirements that do not advance this goal.

The United States and Canada have a long tradition of friendship and mutual respect. For too long, however, the barriers to free and reciprocal exchange of architectural services have contradicted this tradition. Congressional approval of the FTA's approach to architectural services will significantly benefit American architects and can only strengthen the relationship that we enjoy and need with our northern neighbor.

91-402 O - 89 - 8

STATEMENT ON BEHALF OF
AMERICAN WIRE PRODUCERS ASSOCIATION
BY ROBERT T. CHANCLER, MANAGING DIRECTOR

HEARING ON UNITED STATES-CANADA
FREE TRADE AGREEMENT LEGISLATION BEFORE THE
COMMITTEE ON FINANCE, U.S. SENATE

APRIL 6, 1988

On behalf of the American Wire Producers Association, I respectfully submit our views on the United States-Canada Free Trade Agreement ("FTA"), and implementing legislation.

The American Wire Producers Association is a national trade organization which represents independent American-owned and -operated manufacturers of carbon, alloy, and stainless steel wire and wire products. Our membership also includes integrated and mini-mill producers of steel wire rod, wire drawers related to domestic rod producers, wire drawers related to foreign steel companies, and suppliers of machinery and other equipment to our industry. Member companies of the Association operate more than 110 plants in 27 states, and they employ over 20,000 American workers. Our members are efficient producers with modern facilities and a productive labor force. They supply more than 70 percent of the domestic market for steel wire and wire products, including round and flat wire, barbed wire, threaded bars, welded wire fabric, wire rope and strand, nails, staples, chain, coat hangers, concrete reinforcing mesh, and chain link fence.

The Association welcomes the opportunity to comment on the United States-Canada Free Trade Agreement. While the Association endorses efforts to promote the free and fair exchange of goods between the United States and all of our trading partners, we are concerned that the goals and benefits of the Free Trade Agreement ("FTA") with Canada may be undermined by certain imbalances in our current bilateral trade relations. We respectfully urge that these imbalances be redressed prior to or concurrently with the implementation of the FTA.

First, the imbalance in the currency exchange rate between the United States dollar and its Canadian counterpart bestows an automatic and unfair price advantage on Canadian exporters of steel wire and wire products.[1] On February 26, 1988, for example, the spot value of the Canadian dollar was only 79.15 U.S. cents. (The Washington Post, February 27, 1988, p. B3.) Although American wire producers are efficient and competitive in the world marketplace, it will be virtually impossible to compensate for such a radical price discrepancy caused by the depressed value of the Canadian dollar.

Second, the implementation of the FTA may undermine the objectives of the program of voluntary restraint arrangements ("VRA's") negotiated with other steel-exporting countries. Third-country producers of wire rod -- the semi-finished steel product from which wire and wire products are manufactured -- will have an incentive to ship their excess tonnages to Canadian wire drawers, who are not affected by VRA limitations and who will have duty-free access to the American market for wire products. Further, Canadian wire drawers will be able to purchase wire rod unburdened by any import limitations, whereas our industry will continue to be confronted by the price increases and periodic shortages which are the inevitable consequences of VRA restrictions. Thus, the availability of third-country production and prices will confer an unfair advantage on Canadian producers and exporters of wire and wire products.

Third, the rules of origin contained in Chapter Three of the FTA provide in Section XV of Annex 301.2 that steel wire products manufactured in Canada from imported steel wire rod will

---

[1] These articles are classified generally under Item Number 609.20 through 609.76, 642.02 through 642.97, and 646.02 through 646.79 of the Tariff Schedules of the United States Annotated (1987), and under headings 7217, 7223, 7229, 7312 through 7315, and 7317 of the proposed Harmonized Tariff Schedule of the United States (1988).

be eligible for duty-free treatment under the FTA. Tables A through D, attached hereto, show that Canada already enjoys an overwhelming balance-of-trade surplus with the United States on carbon, alloy, and stainless steel wire and wire products. The wire products are listed under Items 3 through 7. The rules of origin will surely exacerbate the existing imbalance in trade on steel wire products by encouraging the shipment of steel wire rod from third countries into Canada for processing or conversion into wire products for eventual shipment to the United States on a duty-free basis. We respectfully urge that the rules of origin for steel wire products be amended to conform with the rules of origin for steel wire so that wire products manufactured from imported steel wire rod will not be entitled to duty-free treatment under the FTA.

Fourth, the Association notes that Canada started the FTA negotiations with an unfair advantage and that the schedule for staged reductions in import duty rates perpetuates this advantage. That is, Canada generally imposes a much higher level of duty rates on imported wire and wire products than does the United States. The respective rates of the two countries are listed on Table E, attached hereto. The schedule for staged tariff rate reductions should be accelerated for Canada so that the higher Canadian rates are first reduced to the lower United States rates before mutual staged reductions take place.

We respectfully urge the Committee on Finance to require that the legislation implementing the FTA correct these imbalances prior to or concurrently with the implementation of the FTA. As noted above, the members of the Association support efforts which will lead to the free and fair exchange of goods between the United States and our trading partners, including Canada. At the same time, however, our members are concerned about the imbalances in current bilateral trade relations with Canada, and they ask that these imbalances be redressed as an indispensable part of the creation of a free trade regime between our two countries.

TABLE A

BALANCE OF UNITED STATES-CANADA TRADE
IN
CARBON, ALLOY AND STAINLESS STEEL
WIRE AND WIRE PRODUCTS

1984

	Product Category	U.S. Exports to Canada ($US 1,000)	U.S. Imports from Canada ($US 1,000)	Surplus (+) Deficit (-) ($US 1,000)
1.	Carbon & Alloy Wire	10,283	99,801	-89,518
2.	Stainless Wire	2,352	5,478	- 3,126
3.	Nails	8,618	45,792	-37,174
4.	Wire Rope	2,400	6,936	- 4,536
5.	Wire Strand	925	4,400	- 3,475
6.	Welded Wire Mesh for Concrete Reinforcement	217	2,937	- 2,720
7.	Wire Cloth, Etc.	544	2,763	- 2,219
	TOTAL	$25,339	$168,107	-$142,768

SOURCE: Statistics compiled by the American Iron and Steel Institute.

TABLE B

BALANCE OF UNITED STATES-CANADA TRADE
IN
CARBON, ALLOY AND STAINLESS STEEL
WIRE AND WIRE PRODUCTS

1985

	Product Category	U.S. Exports to Canada ($US 1,000)	U.S. Imports from Canada ($US 1,000)	Surplus (+) Deficit (-) ($US 1,000)
1.	Carbon & Alloy Wire	9,759	97,711	-87,952
2.	Stainless Wire	1,839	4,643	- 2,804
3.	Nails	8,346	50,424	-42,078
4.	Wire Rope	1,928	7,506	- 5,578
5.	Wire Strand	721	3,774	- 3,053
6.	Welded Wire Mesh for Concrete Reinforcement	248	3,748	- 3,500
7.	Wire Cloth, Etc.	724	3,836	- 3,112
	TOTAL	$23,565	$171,642	-$148,077

SOURCE: Statistics compiled by the American Iron and Steel Institute.

TABLE C

BALANCE OF UNITED STATES-CANADA TRADE
IN
CARBON, ALLOY AND STAINLESS STEEL
WIRE AND WIRE PRODUCTS

1986

	Product Category	U.S. Exports to Canada ($US 1,000)	U.S. Imports from Canada ($US 1,000)	Surplus (+) Deficit (-) ($US 1,000)
1.	Carbon & Alloy Wire	$ 9,232	108,774	-99,542
2.	Stainless Wire	1,815	6,594	- 4,779
3.	Nails	13,488	62,594	-49,106
4.	Wire Rope	1,455	5,620	- 4,165
5.	Wire Strand	858	3,842	- 2,984
6.	Welded Wire Mesh for Concrete Reinforcement	120	3,400	- 3,280
7.	Wire Cloth, Etc.	653	7,505	- 6,852
	TOTAL	$27,621	$198,329	-$170,708

SOURCE: Statistics compiled by the American Iron and Steel Institute.

TABLE D

BALANCE OF UNITED STATES-CANADA TRADE
IN
CARBON, ALLOY AND STAINLESS STEEL
WIRE AND WIRE PRODUCTS

January - October 1987

	Product Category	U.S. Exports to Canada ($US 1,000)	U.S. Imports from Canada ($US 1,000)	Surplus (+) Deficit (-) ($US 1,000)
1.	Carbon & Alloy Wire	11,086	87,834	-76,748
2.	Stainless Wire	1,709	5,755	- 4,046
3.	Nails	14,178	51,844	-37,666
4.	Wire Rope	2,024	8,270	- 6,246
5.	Wire Strand	1,282	3,664	- 2,382
6.	Welded Wire Mesh for Concrete Reinforcement	347	2,457	- 2,110
7.	Wire Cloth, Etc.	751	5,884	- 5,133
	TOTAL	$31,377	$165,708	-$134,331

SOURCE: Statistics compiled by the American Iron and Steel Institute.

TABLE E

COMPARISON OF DUTY RATES ON
SELECTED CARBON STEEL WIRE AND WIRE
PRODUCTS, UNITED STATES AND CANADA

	Product	United States (Column 1 Rate)	Canada (M.F.N. Rate)
1.	Barbed Wire	Free	7.2%
2.	Wire, flat, not coated	3.2 - 5.1%	7.3%
3.	Wire, flat, coated	4.2 - 5.2%	7.3%
4.	Wire, round, coated and not coated	1.5 - 5.3%	5.8 - 7.3%
5.	Wire strand	4.9%	9.9%
6.	Wire rope, uncoated	3.5 - 4.0%	7.2 - 9.9%

Source: Tariff Schedules for the United States Annotated (1987), Schedule 6, Subparts 2B and 3B; McGoldrick's Canadian Customs and Excise Tariffs (1985 ed.).

Statement of Jeffry A. Werner, Senior Vice President
Chaparral Steel Company
300 Ward Road
Midlothian, Texas 76065
(214-775-8241)

I am pleased to have this opportunity to present Chaparral Steel Company's position on the United States-Canada Free Trade Agreement. Chaparral supports the Free Trade Agreement and urges this Committee to report favorably on the implementing legislation when it is submitted to Congress later this Spring. Before I explain why Chaparral supports the Free Trade Agreement, I would like to briefly describe the company.

Chaparral is a steel maker. At our plant in Midlothian we manufacture structural steels, bar shapes and rebar. These steels are known as "long products" and are used in the construction of roads, highways and buildings. In the United States today, these products account for almost a third of total steel consumed and are primarily made by the electric furnace, continuous cast process in facilities, like those at Chaparral, that are usually characterized as mini-mills. This is something of a misnomer as applied to Chaparral as we now produce over a million tons of steel a year.

Chaparral melts raw steel from the one and a half million tons of scrap we purchase annually. About a third of this scrap arrives in the form of automobile hulks (400,000 a year) which we shred at the plant; the rest is purchased from dealers. The molten steel is cast into billets that are then rolled into diverse long products. We stress productivity and last year needed only 1.5 man hours for each ton produced. This labor utilization rate puts our labor cost per ton under $30 and is, we believe, as good as any other mill in the world.

Chaparral sells principally in the United States but we are increasingly looking to the export markets. A year ago we began shipping structural steels to Canada and now supply a significant share of the market there in our size ranges. We have shipped to Europe and are now taking the steps necessary to be fully competitive in the Japanese market. Assuming that Mexico continues to liberalize its import regulations, we see sales opportunities in that country as well.

It is clear to us that the advantages of the Free Trade Agreement, over both the short and long term, are significant, both for the United States as a whole and for our company in particular. We wish to emphasize the following aspects of the Agreement in our statement for the Committee record:

1) The rules of origin in the Agreement will go a long way toward resolving the problems that have arisen for the steel industry in determining the country of origin of steel products imported from Canada.

2) The energy measures are expected to increase electricity imports from Canadian hydro-electric projects that have surplus capacity and favorable costs, and there are specific provisions that assure the availability of energy supplies during periods of shortage. While we in Texas do not expect any immediate benefit from the energy provisions, we nevertheless are convinced that they are in the long term best interests of the country.

3) The elimination of tariff barriers between the two nations will have a positive effect on trade, although we were greatly disappointed that the tariffs on certain structural steels could not be immediately eliminated and rather will be phased out over 10 years along with other steel products. We plan to work with the Committee and U.S.T.R. so that we can utilize the acceleration clause of the Agreement for these tariff reductions.

4) The Free Trade Agreement should also have a positive effect on exchange rates. During the past year, the value of the Canadian dollar relative to the U.S. dollar has crept steadily upward. As the two markets become increasingly integrated under the operation of the Agreement, it is difficult to see how a significant disparity in exchange rates could, in fact, occur again in the future.

5) The provision for review of countervailing duty and antidumping orders by a binational tribunal rather than the appellate courts is unique and promising, and should offer more prompt resolution of these trade cases. In addition, the commitment of the two nations to negotiate an appropriate substitute for application of the anti-dumping and countervailing duty laws between them is encouraging. Certain modifications to these laws will prove necessary for effective implementation of the Free Trade Agreement.

The elimination of tariffs on goods traded between the United States and Canada was a key negotiating objective. Under the Agreement, however, tariffs on steel, which are much higher in Canada than in the United States, will not be eliminated on the effective date, but instead will be phased out over ten years. This long-term phase out was a disappointment to Chaparral and the other structural steel producers which had urged Ambassador Yeutter and the U.S.T.R. staff to negotiate an immediate duty elimination on structural steels classified in T.S.U.S. Items 609.8010 through 609.8090. The U.S. duty on these structurals is only 0.9 percent, which is in stark contrast to the Canadian duty of 6.8 percent. This 5.9 percent differential is larger than any other difference between U.S. and Canadian duty rates on major steel products. Moreover, the U.S. tariff of 0.9 percent is the lowest duty on any steel product. At an illustrative selling price of $300 (U.S.) per ton, the tariffs are, therefore, $20.40 on shipments into Canada but only $2.70 on sales from Canada into the United States.

Given these disparities, we argued in our presentation to U.S.T.R. that the phase out would be of no benefit to U.S. producers and would unjustifiably delay the advantages that duty free entry of structurals into the Canadian market would provide. Virtually all of the producers of the angles, shapes and sections classified in T.S.U.S. 609.8010 to 609.8020 joined us in support of immediate tariff elimination. The other companies that supported this effort were NUCOR Corporation, Charlotte, North Carolina; Northwestern Steel and Wire Co., Sterling, Illinois; Bayou Steel Corporation, LaPlace, Louisiana; and Structural Metals, Inc., Seguin, Texas.

In presenting our position, we pointed out that the very purpose of a bilateral free trade agreement is to achieve broad trade liberalization for the mutual benefit of the participating countries. Ideally, tariffs on goods traded

between the countries would be completely eliminated upon entry into force of the agreement. Exceptions should be made only if it is clear that disruption would occur in a particular market, thus justifying an adjustment period.

In the case of structural steel, there was no justification for such an exception since trade liberalization would have no adverse effects on the producing industry in the United States which is increasingly dominated by efficient and competitive mini mills. Nor do we envision any adverse effect on Canadian producers from eliminating their duties on the effective date of the Agreement given the relative import shares those producers have in the U.S. market. (See Appendix I).

Regrettably, the final agreed-on text of the Free Trade Agreement includes all steel products, including structurals, in the ten year phase out category. While we recognize the practicalities and the politics that led to this result, it is still far from clear why, when virtually all the U.S. producers had requested that the tariffs on a particular product be eliminated immediately, an exception could not have been made.

Ambassador Yeutter has drawn our attention to the clause in the Agreement that permits product by product acceleration of the tariff reductions and has assured us that U.S.T.R. "would be prepared to consider recommendations, once the FTA has been approved, to accelerate tariff reductions." We, of course, intend to pursue acceleration of structural tariff reductions at the earliest opportunity. In this regard, we urge this Committee to ensure that the implementing legislation and report language provide for effective utilization of the acceleration clause by industry where, as in the case of structural steels, long term phase out makes no sense and adversely affects U.S. producers.

Aside from tariff reductions, Chaparral expects that the Free Trade Agreement will have a positive effect on exchange rates. Although there have been complaints that the Agreement does not contain an exchange rate consultation mechanism, such a provision seems unnecessary. As Secretary Baker has testified, Canada and the United States are both part of the Group of Seven which considers exchange rate issues on an on-going basis. Given that consultative framework, bilateral consideration of the same issue would be redundant, particularly as we are not aware of any indication that there has been manipulation of exchange rates in Canada for trade purposes.

During the last year, the value of the Canadian dollar relative to the U.S. dollar has crept steadily upward so that as of April 14, 1988 the rate stood at .8087, which reflects a substantial appreciation from a year earlier. We think it is significant that this appreciation occurred during and after the final negotiation of the Free Trade Agreement and its execution by both governments. Moreover, the elimination of tariffs, which are much higher in Canada than in the United States, is itself a positive harbinger that the exchange rate will continue toward parity or equilibrium at a higher level than now exists. Indeed, as the markets become increasingly integrated, it is difficult to see how a significant disparity in exchange rates could, in fact, occur again in the future.

A unique feature of the Free Trade Agreement, which we find wholly acceptable, is the provision for review of countervailing duty and antidumping orders by a binational

tribunal in lieu of the appellate courts. While we appreciate many of the arguments that may be raised against this procedure, we are not troubled by them. First, while judicial review is an important -- if not vital -- part of trade law administration, it can be slow. Our counsel argued an appeal from an International Trade Commission decision before the Court of International Trade last July in a case in which the ITC essentially admitted error. Yet today, nine months later, we still do not have a decision. As we read the binational review procedures, it is quite possible that appeals will be disposed of much more quickly by the tribunal than by our courts particularly if you take into account the possibility of appeal to the Court of Appeals for the Federal Circuit.

Secondly, we derive assurance of fair treatment from the fact that the negotiators took pains to provide that the tribunal would apply the law of the jurisdiction where the proceeding took place. Therefore, one can expect that the tribunal's decisions would be consistent with precedents established by the CIT or CAFC. And, should a tribunal decision be reached that is manifestly out of line with precedent, the binational dispute procedures could be invoked.

Chaparral is, in fact, encouraged that the United States and Canada have agreed to negotiate a substitute for the application of the antidumping and countervailing duty laws between the two countries within five years. Failure to agree on a substitute would entitle either to withdraw from the Agreement. In our view, this provision was drawn to establish an environment in which a substitute system is almost inevitable. As a company that anticipates increased exports to Canada, we believe there are modifications and/or substitutions for the existing laws that are likely to be necessary for a free trade area.

As the Committee is no doubt aware, the dumping laws operate to the disadvantage of U.S. producers whose principal market is located some distance from the Canadian border. This is because the selling price that is used to establish fair value is determined where the majority of sales are made and that is normally the region closest to the factory. When Chaparral sells outside the Texas area, such as in Canada, or even in Buffalo, it is often necessary to absorb freight even though the same price is charged net to the customer. Because freight is deducted in fair value calculations, we therefore run the risk of dumping actions simply because of the quirk of location. (For example, assume Dallas is our principal market as measured by volume. If freight to Buffalo and Toronto is $50, and our customers in Dallas, Buffalo and Toronto all pay $300 per ton, our mill net is $300 for sales in Dallas and $250 for sales in Buffalo and Toronto.)

Chaparral has long supported both the spirit and concept of the unfair trade laws. However, given the economic integration that the Free Trade Agreement is expected to achieve, the normal dumping rules may well prove not to be appropriate trade regulators in every respect. The five year period for consideration of alternatives should be sufficient to sift through the current rules and evolve a substitute which is acceptable to both countries and their industries and which would accommodate the legitimate concerns these laws address. We look forward to an opportunity to comment during this process.

Finally, as a steel producer we must note that the Steel Caucus has expressed reservations about implementing a Free Trade Agreement with Canada in the absence of an arrangement to restrain imports pursuant to the President's Steel Program. We understand, however, that the United States and Canada have recently reached an accommodation whereby there will be monitoring of steel imports from Canada on a product-by-product basis, and when the imports in any product line exceed historic levels, there will be consultations between the two governments as to that product. This is a positive response to the concerns of the Caucus and we feel it should be recognized by Members as they decide whether to approve the Free Trade Agreement.

SUMMARY

As a growing, innovative, productive and profitable steel company, we hope that our comments on the U.S.-Canada Free Trade Agreement and our reasons for supporting its implementation will be of assistance to this Committee.

Appendix I

1986 U.S. AND CANADIAN STEEL MARKETS
(Net Tons)

PRODUCTS	DOMESTIC SHIPMENTS[1] U.S.	CANADA	TOTAL IMPORTS[2] U.S.	CANADA	TOTAL EXPORTS[3] U.S.	CANADA
Structural Shapes (heavy, medium, & bar sized)	4,698,286	681,740	1,872,660[4]	61,606[5]	19,259[6] (31,697)	289,210
Reinforcing Bars	4,268,223	497,165	453,034[7]	7,872[8]	14,197[9] (14,197)	18,869
Other Hot-Rolled Bars[13]	4,275,364	555,472	406,295[10]	51,182[11]	19,561[12] (52,248)	127,467
Wire-Rod	3,380,095	706,119	1,202,863[14]	251,965[15]	2,637[16] (5,876)	327,404

1. U.S. numbers are from the American Iron and Steel Institute (AISI), 1986 Annual Statistical Report. Canadian numbers are from Statistics Canada, Primary Iron and Steel, Table 2, Dec. 1986. Numbers do not include alloy products.

2. U.S. numbers are compiled from the Department of Commerce, Canadian numbers are compiled from the Canadian International Trade Classification (C.I.T.C.) Detail, 1986. Both sets of numbers only include carbon, hot-rolled products.

3. U.S. numbers are compiled from the Department of Commerce. Numbers in parenthesis are from AISI, 1986 Annual Statistical Report. The Canadian numbers are from Statistics Canada, supra, note 1. Canadian numbers and AISI numbers may include products other than hot-rolled carbon products.

4. TSUS #609.8010 - 609.8090.

5. Canadian #44611, 44613, 44615, 44616, 44618, 44620, and 44630.

6. Schedule B #609.8110, 609.8120, and 609.8510.

7. TSUS #606.7900.

8. Canadian # 44405.

9. Schedule B #608.3800.

10. TSUS #606.8310, 606.8330, and 606.8350.

11. Canadian # 44406, 44407, and 44409.

12. Schedule B #608.4310.

13. Includes bar shapes under 3 inches.

14. TSUS #607.1400, 607.1710, 607.1720, and 607.1730.

15. Canadian # 44450-29.

16. Schedule B # 608.7400.

STATEMENT OF

THE CHOCOLATE MANUFACTURERS ASSOCIATION
OF THE U.S.A.

AND

THE NATIONAL CONFECTIONERS ASSOCIATION OF THE U.S.

SUMMARY

In 1987, bilateral trade in confectionery between the United States and Canada exceeded $100 million and spanned semi-manufactured products through finished sugar and chocolate confectionery.

Canada once again dominated the trade relationship exporting more than three times the volume and twice the value of confectionery goods to the United States as our manufacturers shipped to Canada.

The imbalance is the result of:

1. High Canadian tariffs that impede the entry of competitive U.S. semi-manufactured and finished confectionery;

2. The overwhelming price advantage enjoyed by Canadian manufacturers who, unhampered by a domestic price support program, buy sugar at the world price;

The Free Trade Agreement offered the opportunity to address at least one of the causes of the imbalance-tariffs. Despite the sharp disparity in confectionery tariffs between the two countries (U.S. duties range from zero to maximum 7% compared with 10% to 16% in Canada), the Agreement calls for a ten year phase out. Such a lengthy delay in reducing Canadian confectionery tariffs in the face of already minimal U.S. duties only prolongs the imposition of an unnecessary and unreasonable handicap on American confectionery manufacturers.

TEXT

Free access to the $11 billion United States confectionery market has enabled Canada to become a major supplier of all categories of confectionery from semi-manufactured to finished retail products.

Dominant among Canadian confectionery exports for the last two years is the semi-manufactured product, chocolate in ten pound blocks (TSUS 156.25/HS 1806.20), which enters the United States duty free. From 4,376 metric tons imported during 1985, the volume has surged to more than 28,597 metric tons in 1987 valued at $41 million.

United States exports of this same product to Canada last year were approximately 263 metric tons. Canada's duty is 10%. The disequilibrium in this category more than any other illustrates the handicap to domestic industry competitiveness caused by the U.S. sugar price support program.

The world price for raw sugar averaged $ .067/lb last year compared to a U.S. producer price of $ .218/lb. The Canadian retail price for refined sugar averaged $ .25/lb. compared to $ .35/lb. in the United States.

The availability of world price sugar is the fundamental reason for Canada's competitive advantage. Sugar makes up between 45% and 98% of confectionery products. In fact, raw materials including sugar, milk, cocoa, peanuts and flavorings are 55% of confectionery manufacturing costs. Therefore, long term success in our highly competitive domestic and world market depends on access to lowest cost raw materials. Unfinished chocolate and cocoa products in particular, which are unbranded and sold in bulk to other manufacturers, must compete on price alone.

The Free Trade Agreement, which will undoubtedly benefit the economies of both nations, may not be the vehicle for administering a much needed correction to the U.S. sugar policy. The Agreement does however offer an opportunity to lessen some part of the burden on American semi-manufactured and finished confectionery exporters by providing for rapid reductions in Canada's duties. We ask the Committee's support and assistance in achieving this objective as early as possible in the life of the Free Trade Agreement.

JOSEPH R. BIDEN, JR., DELAWARE, CHAIRMAN
EDWARD M. KENNEDY, MASSACHUSETTS
ROBERT C. BYRD, WEST VIRGINIA
HOWARD M. METZENBAUM, OHIO
DENNIS DeCONCINI, ARIZONA
PATRICK J. LEAHY, VERMONT
HOWELL HEFLIN, ALABAMA
PAUL SIMON, ILLINOIS
STROM THURMOND, SOUTH CAROLINA
ORRIN G. HATCH, UTAH
ALAN K. SIMPSON, WYOMING
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
GORDON J. HUMPHREY, NEW HAMPSHIRE
MARK H. GITENSTEIN, CHIEF COUNSEL
DIANA HUFFMAN, STAFF DIRECTOR
DENNIS W. SHEDD, MINORITY CHIEF COUNSEL

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

May 27, 1988

The Honorable Lloyd Bentsen
Chairman
Committee on Finance
United States Senate
205 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

As you are aware, the Committee on the Judiciary has jurisdiction over several provisions of the U.S.-Canada Free Trade Agreement ("FTA") implementing legislation, including chapter 19 which creates a binational panel to replace judicial review in antidumping ("AD") and countervailing duty ("CVD") cases. The Committee held a hearing on this provision on May 20, reviewed the House Judiciary Committee record, met with Administration representatives and analyzed their proposed legislation, and received input from the Finance Committee and its staff. Despite its efforts, the Committee on the Judiciary was unable to reach a consensus in order to make a recommendation on the implementing legislation.

We believe, however, that the FTA's creation of a binational panel to replace the United States' long-established judicial review system in AD/CVD duty cases raises such serious policy and constitutional questions that, as members of the Judiciary Committee, we feel compelled to make our views part of the record. We ask that the Finance Committee consider these points during its final deliberations on the implementing legislation and include them in the Committee report.

In our view, to deprive U.S. citizens of their existing right to judicial review in AD/CVD duty cases in order to "reassure" Canada which has a "perception that administrative AD/CVD determinations were open to being influenced politically" (Testimony of M. Jean Anderson before the Judiciary Committee, May 20, 1988, at 8) is unwise as a policy matter and raises grave constitutional problems.

Clearly, the FTA panel procedure sets a precedent for the elimination of judicial review in connection with future trade agreements with other nations. Even though elimination of judicial review is not the stated goal of the FTA and decisions by U.S. courts were not seen as the problem in the negotiations with Canada (Id. at 8-9), Congress is being asked to take a dangerous step toward undoing the judicial system it has carefully developed over the past two hundred years. This is a step that should be given the closest scrutiny so it does not undermine the judicial system that this country so greatly values.

Furthermore, the panel represents a potentially unequal and unworkable system. Review of AD/CVD decisions involving Canadian goods will be conducted by five person panels consisting of two or three Canadians, while review of all other AD/CVD decisions is

before the Court of International Trade ("CIT"). This parallel system could lead to the development of disparate jurisprudences between the panel and CIT and also between one panel and another. We also understand that in AD/CVD litigations currently, numerous disputes are taken to and resolved by the CIT judge before, and in anticipation of, the final briefing stage. Disputes arise over the state and completeness of the administrative record, access to confidential information in the record, whether an agency decision making was contaminated by bad faith, and other issues. The CIT judge can and does resolve issues such as these; the panel will be unable to do so.

Many constitutional questions have been raised by constitutional scholars, practicing attorneys, and bar/trade associations which, to date, have not been answered to our satisfaction. Our founding fathers went to war to secure, among other things, an independent judiciary. We ensured an independent judiciary by providing in Article III of the Constitution, that judges serve during good behavior at undiminished compensation.

The individuals who have shared their concerns with the Committee regarding the panel proposal have noted that matters subject to "suit at common law or in equity or admiralty" which unquestionably include import duty cases, are at the "protected core" of Article III judicial powers. See Thomas v. Union Carbide, 473 U.S. 568, 587 (1985); Northern Pipeline Co. v. Marathon Pipe Line Co., 458 U.S. 50, 70-71 n.25 (1982). Although the Administration states that the panel will operate pursuant to international law, in practice the panel will be applying and interpreting U. S. domestic law. Whether U.S. importers, U.S. farmers, U.S. manufacturers, U.S. workers, or U.S. consumers will suffer or prosper will depend on the panelists' resolutions of cases or controversies arising out of the interpretation and implementation of our laws. If these cases or controversies are at the "protected core" of the Judiciary's Article III powers, then the constitutional difficulties inherent in the panel proposal are self evident.

In light of this and other constitutional issues, it is imperative that an effective "fast track" constitutional challenge provision be written into the implementing legislation. As the legislation is currently drafted, constitutional review of the binational panel system may be commenced thirty days after the date of publication in the Federal Register of notice that binational review has been completed. This stipulation could result in a delay of a year or more in determining the constitutionality of the panel system. It is in the interest of all concerned that this issue be resolved as quickly as possible. We recommend that constitutional review be available upon filing a complaint with the panel rather than upon rendering of a panel decision.

We thank the Chairman for considering these important issues in developing the Finance Committee's proposal to the Administration.

Sincerely,

Howell T. Heflin

Dennis DeConcini

DDC/tlm

Statement By
Kenneth Y. Millian
Vice President, W. R. Grace & Co.
April 8, 1988

U.S.-CANADA FREE TRADE AGREEMENT

On behalf of W. R. Grace & Co. and its member company, Ambrosia Chocolate Co., I want to express the following concerns as to negative impacts of the proposed U.S.-Canada Free Trade Agreement (FTA) on Ambrosia Chocolate Co.'s competitiveness domestically.

The FTA will reduce American and Canadian tariffs on cocoa-based products by ten equal cuts of ten percent a year beginning on January 1, 1989. Presently, Canada charges an import duty of 12.5% ad. valorem on all cocoa-based products, while the U.S. charges an import duty of 0% to 5% ad. valorem on chocolate products and 0% to 2.5% ad. valorem on confectioner's (compound) products. Since Canada has higher tariffs on cocoa-based products, Ambrosia, in theory, will benefit from an expanded free market.

However, the FTA left intact the U.S. domestic sugar price support program which maintains a high U.S. domestic sugar price. The price of sugar is important to chocolate manufacturers such as Ambrosia, because chocolate products by weight contain up to 60% sugar. Ambrosia and other American users of sugar currently pay 8 cents per pound more for refined sugar than what Canadian food processors pay for sugar bought on the world market. The price differential has gone as high as 12 cents per pound over the past four years. American import duties only partialy offset Canadian manufacturers' lower sugar costs so even now Canadian-made chocolate products enjoy a raw material cost advantage over American competitors in the U.S. market.

Ratification of the FTA as it stands will unbalance the situation further because the continued sugar price differential along with the shrinking tariffs under the FTA will give Canadian chocolate products an even larger cost advantage not only in the Canadian but also in the American market. On the other hand, even removing the Canadian import duty on chocolate products will not make American chocolate products price competitive in the Canadian market due to higher sugar costs. So, in reality, Ambrosia's competitiveness will suffer once the FTA is implemented.

It should be noted that the FTA will also adversely affect business for Ambrosia's customers marketing sugar-containing products in direct competititon with Canadian manufacturers. As a result Ambrosia's business volume will be further reduced if our customers lose market share in the U.S. while being unable to price competitively to increase market share in Canada.

While Ambrosia favors competing in a more open market, we would like to do so on an even playing field. Ambrosia strongly feels that the FTA will favor Canadian sugar-containing products. To level the playing field, either the sugar price support system needs to be eliminated or higher tariffs need to be imposed on sugar-containing products entering the U.S.

136 Hart Senate Office Building
Washington, DC 20510
(202) 224-3744

721 Federal Building
210 Walnut Street
Des Moines, IA 50309
(515) 284-4890

206 Federal Building
101 1st Street S.E.
Cedar Rapids, IA 52401
(319) 399-2666

United States Senate

CHARLES E. GRASSLEY

103 Federal Courthouse Building
320 6th Street
Sioux City, IA 51101
(712) 233-3331

210 Waterloo Building
531 Commercial Street
Waterloo, IA 50701
(319) 232-6657

119 Federal Building
131 E. 4th Street
Davenport, IA 52801
(319) 322-4331

May 27, 1988

The Honorable Lloyd Bentsen
Chairman
Committee on Finance
United States Senate
205 Dirksen Office Building
Washington, D.C. 20510

Dear Senator Bentsen:

As a member of the Committee on the Judiciary, I would like to take the opportunity to comment on the implementing legislation for the U.S. - Canada Free Trade Agreement ("FTA"). My comments, based upon the hearing held by the Judiciary Committee on May 20, 1988 and review of the proposed legislation, will be confined to portions of the draft legislation which address the binational panel, chapter 19 of the FTA.

At the outset, I wish to convey some policy concerns with the establishment of a binational panel system. Our judicial system has evolved to allow for judicial review of final administrative determinations in anti-dumping ("AD") and countervailing duty ("CVD") cases. Parties to AD and CVD cases have come to rely on and have confidence in court review. This has the effect, recognized by U.S. Trade Representative officials Alan F. Holmer and Judith Bello, of reducing "the pressure that disappointed U.S. petitioners attempt to apply to the Congress to amend the law whenever [the Department of] Commerce makes any determination adverse to their interests." Holmer and Bello, "The U.S. - Canadian Lumber Agreement: Past as Prologue," 1987 **The International Lawyer**, p. 1198. Any elimination or erosion of judicial review should, therefore, proceed cautiously.

Notwithstanding these policy concerns, the binational panel in the context of the FTA, is a workable solution to the final resolution of trade disputes between the U.S. and Canada. According to all but one (the representative from the Customs and International Trade Bar Association) of the legal authorities who testified before the Senate Judiciary Committee, the establishment of a binational panel would comport with constitutional standards. There is some disagreement, however, as to the constitutional implications of the process by which panel decisions would be implemented.

First, I share the primary view which I understand has been adopted by the Finance Committee, that the decisions of the panel can be implemented directly by the relevant federal agencies, the Department of Commerce and the International Trade Commission. The weight of legal authority supports the view that such a process would not run afoul of the Appointments Clause of the U.S. Constitution, Article II, Sections 2. However, I would urge that the Finance Committee go one step further and include language which would require

that the Department of Commerce and the International Trade Commission directly implement the decisions of the binational panel. It is my understanding that the House version includes such language. Language offered by the Justice Department's Office of Legal Counsel authorizing the President to direct the agencies to implement the panel's decisions could lead to unnecessary involvement by the President in decisions of the panel.

Second, I also share what I understand to be the Finance Committee's view that the appointment of the American panelists should be made by the President, subject to the advice and consent of the Senate. I would add that the appointment of the Canadian panelists should also be subject to appropriate checks and balances. While I understand the Commerce Department's concern that the panel not be subject to the political process that sometimes accompanies Presidential appointment, the replacement of judicial review with the panel requires that the panel be erected in a way that will give it respect and credibility. Appointment by the U.S. Trade Representative, even with informal consultation by appropriate Congressional Committees will not ensure such qualities. Presidential appointment, subject to the Senate's check, will do so. In addition, it should serve as a protection against possible conflicts of interest the panelists could potentially have with other functions they may have.

In sum, the implementing legislation for the FTA should strive to give the binational panel utmost integrity and independence, so that its procedures and decisions will inspire the confidence and satisfaction of the individuals who appear before it. Thank you for consideration of these views.

Sincerely,

Chuck

Charles E. Grassley
United States Senator

JOSEPH R. BIDEN JR., DELAWARE, CHAIRMAN
EDWARD M. KENNEDY, MASSACHUSETTS
ROBERT C. BYRD, WEST VIRGINIA
HOWARD M. METZENBAUM, OHIO
DENNIS DeCONCINI, ARIZONA
PATRICK J. LEAHY, VERMONT
HOWELL HEFLIN, ALABAMA
PAUL SIMON, ILLINOIS
STROM THURMOND, SOUTH CAROLINA
ORRIN G. HATCH, UTAH
ALAN K. SIMPSON, WYOMING
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
GORDON J. HUMPHREY, NEW HAMPSHIRE

MARK H. GITENSTEIN, CHIEF COUNSEL
DIANA HUFFMAN, STAFF DIRECTOR
TERRY L. WOOTEN, MINORITY CHIEF COUNSEL
R.J. DUKE SHORT, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

June 9, 1988

The Honorable Lloyd Bentsen
Chairman of the Committee on Finance
United States Senate
205 Dirksen Office Building
Washington, D.C. 20510

Dear Senator Bentsen:

As you are aware, during the Senate Judiciary Committee examination of the proposed implementing legislation for the U.S.-Canada Free Trade Agreement, a number of Constitutional concerns were raised with respect to the binational panel created to hear anti-dumping and countervailing duty cases. We the undersigned confine our comments to the issue of the constitutionality of the binational panel.

We understand that the most recent legislative proposal has corrected one serious problem relating to review of constitutional questions. As the enabling legislation was originally drafted, it provided no Article III court review of the decisions of the binational panel and many questioned whether it is constitutionally permissible for Congress to deny review by any Article III court of questions concerning interpretations of the Constitution, statutes, or treaties of the United States. We understand that the latest draft of the legislation addresses this concern by providing Article III court review of constitutional challenges.

Another constitutional question raised with respect to this panel involves the appointments clause of the Constitution (Article II, sec. 2, cl. 2), which gives the President the power to appoint "Officers of the United States" by and with the advice and consent of the Senate when the offices to be filled have been established by law and the appointments to them have not otherwise been provided in the Constitution. Officers of the United States are those who exercise significant authority pursuant to the laws of the United States and they may be appointed to office only in accordance with the appointments clause. Buckley v. Valeo, 424 U.S. 1, 109-143 (1976). If the panelists act to interpret and apply U.S. law, and their decisions are automatically binding as a matter of domestic law, then the decisions would clearly involve the exercise of "significant authority pursuant to the laws of the United States," and therefore the panelists would be found to be "officers of the United States," who are subject to appointment by the President.

This appointments clause problem can be resolved by drafting the implementing legislation so that it authorizes the president to direct the implementation of decisions rendered by the binational panels and extraordinary challenge committees which avoids the problems associated with making the decisions automatically binding as a matter of domestic law. This solution, supported by the Reagan Administration, ensures that decisions of the binational panels and extraordinary challenge committees would be implemented in a constitutionally acceptable way, without undermining the independence of the International Trade Commission. The President would be bound to implement these decisions as a matter of international law, as long as the treaty remains in force.

While this constitutional concern is easily remedied, we note that the creation of a binational panel has raised a number of policy concerns. The Court of International Trade currently provides independent judicial review of administrative determinations in anti-dumping and countervailing duty cases. We question whether placing review of these decisions in the hands of a binational panel will provide either greater independence or fairness than found under current domestic law. Indeed, placing review of these decisions before binational panels may be unadvisable in the context of future trade agreements with countries other than Canada.

In conclusion, we believe the implementing legislation for the U.S.-Canada Free Trade Agreement should resolve the appointments clause problem by authorizing the President to direct government agencies to implement the international obligations resulting from the binational panel and extraordinary challenge committees. Thank you for your consideration of these views.

Sincerely,

Strom Thurmond

Orrin G. Hatch

Gordon J. Humphrey

RICHARD
LICHT
DEMOCRAT FOR U.S. SENATE

May 18, 1988

The Honorable Claiborne D. Pell
335 Russell Building
Washington, D.C. 20510

Dear Senator:

Enclosed is a letter I have sent to the President of the United States regarding a new duty remission and tariff reduction program proposed by Canada.

Since this program would be grossly unfair to our textile and apparel manufacturers, I would appreciate your bringing this matter to the attention of the appropriate Congressional Committees.

Thank you.

Sincerely,

Richard A. Licht
Lieutenant Governor

RAL/ecf

P O Box 547 • Providence, Rhode Island 02901 • (401) 724-1988

Paid for by Licht '88 Committee

Richard A. Licht

May 17, 1988

President Ronald Reagan
The White House
Washington, D.C. 20500

Dear Mr. President:

The Canadian government has recently announced a new duty remission and tariff reduction program to assist its textile and apparel industries. The program will save Canadian producers an estimated $50.5 million (U.S.) in duties, provide them with an unfair competitive advantage in U.S. apparel markets and tend to discourage purchases of U.S. textiles by Canadian apparel manufactures.

This scheme violates the spirit and objectives of the U.S. - Canada Free Trade Agreement. At a time when both countries have expressed a commitment to remove trade barriers to each others goods and services Canada is proposing to implement a new subsidy program. It is also unfortunately not an isolated case. Canada uses remission schemes in sectors such as the auto industry as well.

This is not an issue of free trade versus protectionism. It is a fair trade issue. I urge you to take this matter up with the Canadian government to ensure that American and Canadian apparel and textile manufactures play on the same level playing field.

Sincerely,

RICHARD A. LICHT
Lieutenant Governor

RICHARD A. LICHT

DEMOCRAT FOR U.S. SENATE

P R E S S R E L E A S E

FOR RELEASE: IMMEDIATE
May 17, 1988

CONTACT: Lorraine Filberthau
(401)724-1988

Canadian Subsidies Unfair to American Textiles and Apparel Manufacturers

Democratic candidate for the United States Senate, Lt. Governor Richard A. Licht today (5/17/88) sent a letter to the President of the United States protesting an unfair textile and apparel program proposed by the Canadian government. He also sent copies to the Congressional delegation asking them to inform the appropriate Congressional Committees of the injustice of this program to American textile and apparel manufacturers.

"Increasing subsidies for Canadian producers at the same time we open our American markets wider, violate the spirit of the recently negotiated Free Trade Agreement," Licht said. He also said that Canada's plan violates terms of the trade accord whereby both countries have pledged not to erect new subsidy programs subsequent to the agreement's taking effect next January.

The Canadian program provides apparel manufacturers who buy imported fabrics duty rebates when they either export goods to the United States or produce a specified amount of apparel in Canada. The more than estimated $50 million in savings to Canadian manufacturers will allow them an undue advantage in the American market and will discriminate against American manufacturers who do not have similar rebate advantages.

"The United States and Canada are the world's largest trading partnership and we must do everything possible to maintain that partnership on a fair and equitable basis", Licht said.

Attached is the Lt. Governor's letter to the President where he urges him "to take this matter up with the Canadian government to ensure that American and Canadian apparel and textile manufacturers play on the same level playing field."

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
ST. PAUL 55155

RUDY PERPICH
GOVERNOR

April 7, 1988

The Honorable Lloyd M. Bentsen
Chairman
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510-6200

Dear Senator Bentsen:

As you know the proposed Canada-U.S. Free Trade Agreement is a strong step toward trade liberalization between the world's two largest trading partners. As a border state with significant Canadian heritage, Minnesota well understands the importance of this trade relationship.

Initial review of the proposed changes shows that a free trade agreement with Canada will impact favorably on Minnesota. The elimination of tariffs on high technology products, some as high as 17 percent, will certainly benefit Minnesota companies. Secure access to Canadian hydroelectric power, Minnesota's main import from Canada, will be important to our future economic growth and well being.

With the projected net benefits to Minnesota's economy, and as an advocate of free and fair trade, I am strongly supporting this agreement. Whereas I hope that further steps can be taken in the agricultural area in future negotiations, we all must recognize the importance of this legislation and the benefits it will bring.

I am submitting for the record an article written by the Commissioner of our Department of Trade and Economic Development. This article was presented as our official position statement at the Durenberger-Frenzel congressional hearing on the Canada-U.S. Free Trade Agreement held in Minneapolis on November 11, 1987. I would like this statement of Minnesota's support to be submitted for the official transcript of the U.S. Senate Committee on Finance proceedings.

Sincerely,

RUDY PERPICH
Governor

AN EQUAL OPPORTUNITY EMPLOYER

FREE AND FAIR TRADE

A STEP TOWARD FUTURE PROSPERITY

By David J. Speer
Commissioner
Minnesota Department of Trade and Economic Development

The free trade agreement struck last month between the United States and Canada was a significant event in the history of international trade. In the face of our growing trade deficit, we must recognize the importance of the U.S.-Canada free trade agreement to our future economic well being.

The United States and Canada constitute the world's largest trading partnership. Trade between the two countries totaled $125 billion in 1986, more than Japan and only slightly less than trade between the United States and all 12 member nations of the European Community. Significantly, this trading relationship accounts for 24 percent of all U.S. exports and 70 percent of all Canadian imports.

An improved trade relationship with Canada will certainly benefit Minnesota. Minnesota's bilateral trade with Canada last year totaled $3.0 billion, of which almost $1 billion represented Minnesota exports. This means that 40,000 Minnesota jobs are tied directly or indirectly to this trade relationship. One-third of Minnesota's foreign investment has come from Canada, compared to 18 percent nationally. This has created another 11,000 jobs in our state.

Minnesota business has been active in support of the free trade initiative. There are 15 Minnesota members of the American Coalition for Trade Expansion with Canada (ACTE/CAN), a nonprofit organization representing a wide variety of business interests. Several of our state's largest corporations are represented, as are smaller companies such as Perham Egg, and Claseman Management Services, which represents 1,100 small businesses throughout the region; 800 of them in Minnesota.

Credible studies on both sides of the border conclude that the U.S. and Canada will receive significant economic stimulus from free trade. Among these are a national study done by the Economic Council of Canada and a regional study done by the 49th Parallel Institute at Montana State University. Economic analysts speak of boosts in real wages, increased production, stimulated business investment and industrial revitalization.

These potential benefits precisely reflect the type of economic reform advocated by The Business Roundtable in its June report entitled "American Excellence in a World Economy." The Roundtable report calls for increased productivity and cites competition as a taskmaster in that quest. It states that we must resist the temptation to "justify misguided policies designed to 'help' American industries compete in world markets." Protectionism is simply the other side of the free trade coin.

The report goes on to say that the United States must do better in world competition. By offering expanded market opportunities, sometimes competitive in nature, the U.S.-Canada free trade agreement gives us a chance to do just that. One step at a time, starting with Canada.

As with all trade negotiations and their resulting impact on various industrial sectors and special interest groups, there are advocates and opponents. And, as expected, the opponents tend to be more vocal. But it is important to note here that we are not calling for sweeping reform. More than 80 percent of trade between the U.S. and Canada is already duty free, and a significant portion of the remainder has a tariff of less than five percent.

With that in mind, let's look at two areas of opposition to the free trade agreement: energy and agriculture.

On the energy side, free and open energy trade would be established between the two countries. The United States would have access to Canadian energy in a time of scarcity and more Canadian hydro power would be sold southward. On our side of the border, there is opposition from states with coal and petroleum resources.

Let's look at the broader picture from the U.S. side. Minnesota, for example, currently imports almost $90 million per year of Manitoba hydro power. The enormous James Bay hydro electricity project in Quebec exports a significant amount of energy to northeastern states. Hydro power is plentiful, environmentally sound, and is generated from a renewable resource. It's a sound example of comparative advantage, and Americans reap the benefits in a number of ways. One is in affordable energy for our homes and businesses (the cost of electricity in Minnesota is among the lowest in the nation). Another is that we are consuming electricity produced by a non-polluting source, an argument which pays for itself in spades on the acid rain issue.

In Canada the opposition comes from those who hold that Canada is surrendering its right to decide unilaterally how it will administer its energy resources in times of scarcity. But the provision for shared energy in times of scarcity already exists for oil supplies through the International Energy Accord, to which Canada is committed.

The bottom line is that Canada will be a reliable supplier if the U.S. is a reliable customer. Given all the benefits, it is difficult to argue with the logic of having this kind of relationship with our neighbor to the north.

In the agricultural area, there are pockets of opposition on the U.S. side. Among them are the hog producers, meat packers, and corn producers, where the impact of market changes can be particularly sensitive. But we have negotiated improved market access in the area of processed foods which will benefit our food processors across the board. These are companies large and small, with new potential for job creation in value-added manufacturing areas to help stabilize our rural economy.

Additionally, both countries retain their right to apply countervailing duty and anti-dumping laws. This means that justifiable protection can still be accorded to agricultural producers. Existing countervailing duties on hogs and corn will remain in place. This is a very important component of the proposed agreement. It recognizes sensitive issues and deals with them fairly.

The most important part of the agricultural section of the free trade agreement text, however, foreshadows what is the most significant, yet seldom discussed component of the agreement. The two countries have agreed that their primary goal is to achieve, on a global basis, the elimination of all subsidies which distort agricultural trade. We would work together to achieve this goal. This strategy would include multilateral trade negotiations, such as the Uruguay Round of the GATT.

This is important. The rest of the world is watching the progress of our proposed trade agreement with Canada because it will make a strong statement about what can be expected of us in coming years in the area of trade liberalization. It predicts how the United States and our bilateral trading partner will approach free and fair trade in the future, working together as a stronger force in multilateral negotiations.

In summary, we have two unusual opportunities here. First is the chance to enhance our trade relationship with Canada and practice adjusting to trade liberalization changes. Second, and perhaps more important, is the chance to send a powerful signal for well conceived trade liberalization and against protectionism that will serve our two countries well in future trade negotiations.

Our role at the state government level is to make sure the fundamental issues at stake in the U.S.-Canada free trade agreement are not missed. We must spread the word that what is proposed is free and fair trade, not an open market free-for-all. What we are promoting is a very thoughtfully drafted "contract" with our best trading partner and a strong step in the direction of global free and fair trade.

On the U.S. side, the agreement will be signed by President Reagan in early January, and it will then be up to Congress to decide its fate. But Americans of all political stripes are generally open to intelligent arguments well made, and there are compelling ones tied up in this agreement. This pending legislation deserves our support.

-END-

National Governors' Association

John H. Sununu
Governor of New Hampshire
Chairman

Raymond C. Scheppach
Executive Director

May 11, 1988

The Honorable Lloyd Bentsen
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Although we were not able to arrange a date to present our views on the U.S. - Canadian trade pact during your recent series of hearings, I do want to summarize the key points I would have made. I would appreciate it if you would include this letter in the record of the hearings.

The National Governors' Association adopted policy supporting the Free Trade Agreement (FTA) at our 1988 winter meeting. A copy of the policy is enclosed. While concern was expressed during the debate on many sectoral issues, the Governors felt strongly that the trade agreement would increase U.S. competitiveness and should be implemented.

We do have some key reservations. We based our support for the agreement on the understanding that both sides would exercise restraint during the period between January 2, when the agreement was signed, and the date of actual implementation. Therefore, we are most concerned by the action taken by the Canadian government to provide tariff relief for its textile and apparel industries.

Another of our primary reservations arises from the fact that the U.S. Territories of American Samoa and Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands are not covered by the agreement. Although the U.S. Trade Representative undertook a thorough and commendable consultation process with the states, this issue was not raised. We feel that the special concerns of the off-shore Governors must be addressed immediately. Exclusion of the territories must not be the rule for U.S. trade agreements.

I know that Canadian subsidies have been a major concern of the committee members. We share your concern, and our policy supports the additional negotiations on subsidies called for in the agreement. However, state economic development initiatives, as well as federal support programs, could be dramatically affected by strict discipline on subsidies. As strongly as we feel about a level playing field, I believe that the provision for further negotiations in this area is the best approach. We are committed to working with you and the U.S. negotiators who will pursue the subsidy issue if the agreement is implemented to ensure that the outcome is positive for our economy.

On another important matter, I urge you to ensure that the implementing legislation does not include a blanket preemption of state laws. There is a better way to guarantee the proper balance between the federal interest in assuring adherence to an international agreement and the state interest in assuring that special local conditions (such as the timing of legislative sessions) are taken into account. We suggest that the implementing legislation assign lead federal responsibility for working with states to achieve conformity of state laws and practices with the new trade agreement. This should be accomplished in a flexible but timely manner. We recognize the precedence that international agreements take over state laws, but believe the approach we have outlined should be adopted as a matter of federalism principle and as a way to achieve a smooth transition.

We recognize that the agreement is not perfect and did not solve all outstanding problems. It could not be expected to, but even where the agreement was not the last word, it has had the positive effect of furthering debate on important issues. For example, during our consideration of the agreement, some Governors expressed concern about the effect it would have on our nation's long-term energy security. We urge that further analysis be made in this area to identify domestic measures that might be taken to enhance our nation's energy security and avoid undue reliance on energy imports.

Please let me know if we can be of any help as you address the issues raised in this letter, or on any other matter affecting the agreement.

Sincerely,

Tommy G. Thompson

Governor Tommy Thompson
Chairman
U.S. - Canadian Task Force

National Governors' Association

John H. Sununu
Governor of New Hampshire
Chairman

Raymond C. Scheppach
Executive Director

H-7. U.S. - CANADIAN TRADE

The Governors support implementation of the Free Trade Agreement negotiated by the federal governments of the United States and Canada. Our support is contingent upon Canada and the U.S. doing nothing in the interim to violate the spirit of the explicit understanding affirmed in writing on January 2, 1988 to "exercise their discretion in the period prior to entry into force of the accord so as not to jeopardize the approval process or undermine the spirit and benefits of the Free Trade Agreement."

The agreement, while not fully addressing all issues relating to our bilateral trade, is expected to contribute to real growth in the economies of both signatories. It represents a positive step toward the open, competitive world trading system that we have endorsed. It provides for more timely and effective resolution of disputes between the two largest trading partners in the world.

Throughout the negotiations, the Office of the U.S. Trade Representative has sought our advice and made it a priority to keep us informed on progress. As the related legislation is developed and debated, we will continue to consult with the administration and Congress regarding its impact on state economies.

Emphasizing the importance of U.S. - Canadian relations, we will continue our meetings with the Canadian Premiers on issues of mutual interest, including options for greater trade cooperation between our two countries.

We believe that efforts should continue to be made to resolve those issues not fully addressed during the negotiations and that remaining inconsistencies with the General Agreement on Tariffs and Trade (GATT) rules should be vigorously pursued. We will work with Congress and the administration and within our states to minimize any adverse effects of the agreement.

The Governors have significant concerns about issues created or not fully resolved by the agreement and ask to be consulted as the implementing legislation or other measures are developed to ameliorate these problems.

The administration should enter into additional negotiations to address inequities regarding subsidies. Fair and open trade for all businesses requires resolution of the reality or perception of unequal treatment of certain industries due to differing national policies on subsidies.

Adopted February 1988.

national grange

1616 H STREET N.W. WASHINGTON, D.C. 20006

Robert M. Frederick, Legislative Director

March 25, 1988

The Honorable Lloyd Bentsen, Chairman
Senate Finance Committee
205 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

The National Grange, representing a wide range of diversified agricultural producers and rural residents of various economic levels, appreciates this opportunity to submit to you, and the Committee, our position on the United States Canadian Free Trade Agreement.

The agricultural section of the FTA is not a historic agreement, but in time, it can become a model for trade in agricultural commodities on international markets. It demonstrates that the world's two biggest trading partners can hammer out an agreement on delicate trade issues, such as agriculture, investments and services. The U.S./Canada FTA can have a positive influence on the "Uruguay Round" of The General Agreement on Tariffs and Trade (GATT) that is under way in Geneva. However, some GATT members are expressing concern that the proliferation of bilateral agreements can lead to an undermining of the basic GATT principle of non-discrimination between countries. At the same time, other agricultural international trade experts are encouraged by bilateral agreements between trading partners and view the FTA as a model for other nations that are seeking to improve their trading relationships.

With respect to agriculture, the Agreement will not result in a significant dismantling of agricultural trade barriers and other forms of government intervention on either side of the border. As in some other areas, the most sensitive issues and programs were generally exempted from liberalization under the Agreement. With regard to agriculture, the expectation is that they will be handled in the multilateral trade negotiations in GATT. For instance, Canadian marketing boards will not be eliminated (an early U.S. suggestion) and neither will U.S. price support programs (a Canadian counter suggestion). It was agreed that such programs were not negotiable bilaterally since they cannot be modified to eliminate their trade effects for the benefit of just the other country.

Mr. Chairman, much has been said regarding the provisions of the FTA as it pertains to the trade of eggs between the two signers to the Agreement. After considerable study of the Agreement and discussions with officials at the Department of Agriculture and the staff in the office of the United States Trade Representatives, we must agree with the position taken by the Southeastern Poultry and Egg Association in support of the egg provisions in the Agreement. The Association has said, "After careful study of public information and classified data, we have concluded that the concerns by some in our egg industry with the FTA are unfounded and that our industry will be better off when the Agreement is implemented."

Although the Agreement will not result in "free trade" agriculturally between the two countries, it does take a step in that direction. A number of commitments were negotiated that will increase market opportunities for farm products in each country. Since the negotiation did not accomplish all of the stated objectives of the United States with respect to the dismantling of Canadian subsidy programs and other practices, we have to answer the following questions: (1) Is the Agreement a balanced package? (i.e., does the United States gain as much as it gives up in agriculture and overall?) (2) Assuming it is balanced, should we support (or at least not oppose) an agreement that does not go as far as we would have liked but does move in the right direction?

Based on our careful examination of the Agreement, we believe it is a fairly balanced package. The United States could not be expected to be the total victor in the negotiation or it would not have gained Canadian acceptance - just as a total victory for Canada would have been unacceptable to us. We recognize that the Agreement did not accomplish a substantial loosening of the most restrictive trade measures in the agricultural sector in either country, and that these issues will remain to be dealt with in the GATT Uruguay Round.

We do not believe the Agreement should be opposed, however, simply because it did not go far enough. It will certainly expand trade between the countries across-the-board as well as in agriculture. And, at a time when the momentum around the world is toward closing markets, this will provide a needed demonstration that the United States and Canada remain committed to trade expansion. Therefore, we believe that the Agreement should be approved by Congress as a worthwhile step in the right direction for both countries. We believe the Agreement can create an improved trade environment between the two countries and will lead to further reductions in trade barriers as we work together in the Uruguay Round of multilateral trade negotiations.

Mr. Chairman, thank you for this opportunity to express the National Grange's support for the U.S./Canada Free Trade Agreement. We would appreciate this letter being made a part of the hearing record. Thank you.

Sincerely,

Robert M. Frederick

Robert M. Frederick
Legislative Director

RMF/pkh

STATEMENT OF JOSEPH E. SEAGRAM & SONS, INC.

This statement is submitted on behalf of Joseph E. Seagram & Sons, Inc. (Seagram) in response to the Senate Committee on Finance press releases of January 26, 1988 and March 29, 1988, requesting comments on the United States-Canada Free Trade Agreement (CFTA).

Summary

Seagram appreciates the invitation of the Senate Committee on Finance to comment on the CFTA. Free Trade between the United States and Canada would be an important accomplishment for our country and for world trade generally. We would like to do our part to make sure that this historic agreement becomes a reality.

We believe that extensive benefits will be derived from the more balanced and improved trade with Canada which will occur if the CFTA becomes operative. Seagram therefore urges Congress to approve legislation implementing this agreement.

In our view, the elimination of tariff barriers is the cornerstone of any fundamental free trade agreement. We applaud the success with which U.S. and Canadian negotiators were able to agree on the elimination of tariffs for nearly all products traded between the two countries. Seagram believes that these accomplishments merit Congressional approval.

Seagram admits that it will benefit from that portion of the CFTA (item number 2208.30) which will entirely eliminate the tariffs on distilled spirits, effective January 1, 1989. That our support for free trade transcends financial interest is evidenced by our opposition to the Wine Equity Act legislation of several years ago which also would have conferred a financial benefit on Seagram. We support free trade, without regard to short-term effects.

Seagram's Operations and Interests

Seagram is a New York-based corporation which is the leading manufacturer and marketer of distilled spirits and wines in the United States. We employ over 3,500 people throughout the United States representing 75 percent of all our North American employees. The company owns three distilleries and bottling plants, two in Maryland and one in Indiana. Seagram also owns one of Napa Valley's most distinguished wineries, Sterling Vineyards, as well as the Monterey Vineyard.

Seagram has also contracted to purchase all of the capital stock of Tropicana Products, Inc., which produces orange juice and other fruit juice-based products at its facilities in Bradenton and Fort Pierce, Florida. Tropicana employs approximately 3,500 people. The Tropicana acquisition is expected to close in April, 1988.

Joseph E. Seagram & Sons, Inc. is the principal operating subsidiary of the Canadian corporation, The Seagram Company Ltd., based in Montreal. However, with affiliates in 27 countries, Joseph E. Seagram & Sons, Inc. directly manages the corporation's European and other international operations through its New York offices. We and our affiliates produce and market more than 700 brands of distilled spirits, wine, champagnes, ports and sherries in more than 150 countries. However, the United States and Canada account for approximately half of the company's total spirits and wine revenues.

In both the United States and Canada, the products of Seagram and its affiliates are subject to substantial customs duties and excise taxes. Moreover, spirits and wine are subject to additional taxation by governmental subdivisions within the countries in which those products are sold.

Seagram supports the balanced package of duty reductions contained in the CFTA. These reductions will encourage additional trade between the two countries and contribute to needed economic growth.

The Importance of the CFTA

In our view, the implementation of the CFTA is in the best interests both of the United States and Canada. These are major trading partners, and both have prospered over the years as a result of this partnership. By establishing an open trade relationship between the United States and Canada, the CFTA will provide an important step in strengthening the world's trading system. For while the immediate trade benefits of the CFTA are of interest to Seagram, we also recognize that the conclusion of this agreement gives additional momentum to future agreements, viz., the Uruguay Round of Multilateral Trade Talks and the European Community's agreement on corporate taxation harmonization.

We are dedicated to the goal of free trade. Of overall importance is the one undeniable fact that over the long term free trade benefits all.

Implementation of the CFTA would increase the efficiency of the North American economies and strengthen each country's ability to export into an increasingly competitive world market. Such a partnership would demonstrate a strong North American commitment to free and fair trade, and provide an example for the Uruguay Round that major trade issues should be resolved through negotiation rather than confrontation.

Free trade between the United States and Canada has often been a subject of discussion; however, the two countries have never come this close to achieving agreement. We believe that the two countries should take full advantage of this opportunity to strengthen their ties. If the occasion is missed, it will undoubtedly take many years to build enough momentum to revisit the idea of North American free trade.

Seagram has long endorsed policies which foster fair and open trade throughout the world, because history has proven that fair and open trade creates the greatest well-being for not only the United States, but for all countries. Accordingly, Seagram has supported such beneficial legislation as the Caribbean Basin Initiative and the Israeli Free Trade Agreement. We believe that the CFTA will facilitate more balanced, open trade with Canada and will yield similar, beneficial results for both countries in particular and for world trade generally.

Conclusion

Because of the extensive benefits to be derived by U.S. industries and consumers from the more balanced and improved trade that the CFTA would foster, Seagram urges Congress to support legislation to implement this important agreement. Should we be able to provide any specific information or answer any further questions regarding the CFTA, we would be pleased to do so.

Respectfully submitted,

Robert G. Connor, Jr. for
David G. Sacks

David G. Sacks
President
Joseph E. Seagram & Sons, Inc.

STATEMENT OF THE

OFFICE OF THE CHEMICAL INDUSTRY TRADE ADVISOR

The Office of the Chemical Industry Trade Advisor (OCITA) is pleased to have this opportunity to express its views on the United States - Canada Free Trade Agreement (FTA). The FTA is an important step toward free trade with the largest trading partner of the United States. OCITA supports the Agreement, and urges that appropriate implementing legislation be passed by the 100th Congress. We commend the U.S. negotiators on this historical achievement, and look forward to providing advice and working with the Congress in the FTA implementation process.

OCITA was established in 1973 to coordinate the chemical industry's responses to and policy determinations on trade matters under consideration by the U.S. government.

OCITA represents the Chemical Manufacturers Association (CMA), the National Agricultural Chemicals Association (NACA), the Synthetic Organic Chemical Manufacturers Association (SOCMA), and the Society of the Plastics Industry, Inc. (SPI). OCITA's members represent an important part of this Nations' productive capacity for industrial chemicals. In 1986, shipments of chemicals and allied products amounted to $216.2 billion, of which 10 percent were exports. In 1987, the chemical industry accounted for more than $9.5 billion in trade surplus. Trade with Canada accounts for a significant portion of the industry export shipments. The FTA not only affects our exports to Canada but the overall economic health of the industry as well.

Introduction

Throughout the negotiations on the FTA, OCITA monitored the potential effects of the Agreement on the chemical industry and offered advice to the Administration. The FTA signed on January 2, 1988, by President Reagan and Prime Minister Mulroney reflects much of that

advice and addresses many of the concerns OCITA raised during the process. The Agreement should advance the economic interests of the United States, and OCITA believes it will benefit the chemical industry. This is not to say that we are completely satisfied with the FTA. We believe that certain provisions can be improved and urge that future work be so directed as the FTA is implemented. Our comments on the areas where we would like to see improvements made are not intended to convey qualified support for the FTA. They are intended as statements of direction for future improvements of the FTA.

The remainder of OCITA's statement expresses our views regarding specific provisions of the FTA, their impact on the chemical industry, and our recommendations for Congressional consideration during the debate on FTA implementing legislation. OCITA recognizes that use of the so-called "fast-track" approval procedures (Section 151(c) of the Trade Act of 1974, 19 U.S.C. < 2191(c)) will preclude amendments to the implementing legislation, but offers its views in the hope that our suggestions will be considered by the Congress and the Administration as they finish drafting the appropriate legislation.

A. Energy

OCITA welcomes the energy provisions (Articles 901-909) of the FTA that provide for unrestricted and secure energy market access, elimination of two-tier pricing and the prohibition of import/export taxes and fees. Additionally, the provisions related to energy regulatory measures, national security restrictions, and state/provincial governments should enhance access to hydrocarbon supplies and enforcement mechanisms, and improve opportunities for supplemental consultation on energy sector disputes that may develop. Overall, OCITA believes the energy provisions of the FTA will benefit the chemical industry.

B. Tariff Reductions

The tariff eliminations covering chemicals (Article 401) reflects the advice of the industry. In OCITA's view, these provisions are completely acceptable assuming the non-tariff barrier obligations under the FTA are met. The tariff staging provisions for chemicals provide for balanced reductions of U.S. and Canadian tariffs on chemical products to allow for adjustments that will be necessary.

We are particularly pleased with Article 401.5, which provides for consultations leading to the acceleration of a scheduled tariff elimination. Although it does not of itself establish a procedure by which acceleration agreements will be reached, OCITA urges that implementing legislation stipulate that the private sector must be involved in consultations for accelerated tariff elimination. We believe that neither the U.S. nor Canadian governments should unilaterally initiate the accelerator provisions of the FTA without some initiative from the private sector. OCITA believes it is essential that the potentially-affected industry be consulted prior to negotiations by the U.S. government. Moreover, controversial or disputed accelerations should not, as a matter of policy, be the subject of negotiations in this area.

C. Rules of Origin

OCITA believes that the rules of origin (Articles 301-304) applicable to chemical products will substantially reduce the opportunities for third-country imports to receive preferential treatment in the context of U.S.-Canada trade. In addition to a requirement for combined U.S.-Canada raw material and manufacturing costs of at least 50 percent, the FTA also provides specific rules for certain chemical products in Annex 301.2, Sections VI and VII. These sector-specific rules establish an excellent working foundation for the negotiation of similar, multilateral rules of origin in the Uruguay Round on the General Agreement of Tariffs and Trade.

D. Investment Provisions

OCITA is generally pleased with the investment provisions of the FTA (Articles 1601-1611). In particular, OCITA welcomes the elimination of performance requirements and the prohibition on the adoption of more stringent investment-related requirements than those in effect on October 4, 1987. On balance, the investment provisions of the FTA should reduce barriers to investments, encourage increased capital flows and help create of new jobs in both the United States and Canada.

OCITA is concerned, however, with the review provisions of the FTA. The Agreement establishes a higher threshold review level for investments in Canada of C$150 million -- a level certain to include most of the chemical-related acquisitions which may be undertaken in the future. It does not eliminate all review procedures and restrictions, nor does it change the existing restrictions on oil operations with respect to future investments. Additionally, OCITA believes that further clarification of the "grandfather" provisions for inconsistent, existing legislation, as well as more complete definitions of direct and indirect investments, are required. For example, it is unclear at what point a firm will be considered to be foreign-controlled for the purpose of investment reviews.

E. Safeguards

Aside from consultations permitted under Article 1804, the FTA provides no remedy for temporary trade distortions caused by currency fluctuations. In OCITA's view, exchange rate fluctuations strongly influence trade flows, and remedies in addition to consultation are warranted. Consultation on exchange rates may not be enough in the short term. Remedies such as a special surcharge or other temporary adjusting remedies should be considered.

In addition, OCITA is concerned that the modification of the existing U.S. safeguard statute (Section 201 of the Trade Act of 1974) may seriously restrict the ability of U.S. industries injured by the duty-free entry of Canadian goods to obtain the full relief currently provided in Section 201. FTA Articles 1101 and 1102 would apply more stringent standards for import restrictions on Canadian goods than is currently permitted. OCITA recognizes that changes may not be possible in this area, but hopes that industries suffering injury will be able to obtain appropriate redress through the dispute resolution procedures of the Agreement.

F. Dispute Resolution

OCITA believes that the general provisions regarding dispute resolution (Article 1801-1808) are fair and workable, but the question of private sector involvement in the dispute resolution procedures must still be resolved. Under Article 1807, if the United States - Canada Trade Commission does not resolve a dispute within 30 days, and does not refer the matter to binding arbitration, and if either party so requests, the Commission must establish a panel of experts to hear the matter. Similarly, Article 1904 provides for binational review of decisions relating to antidumping and countervailing duty matters. While the procedures particular to each of the two types of panels differs, the FTA does not detail the qualifications of panelists (except that no binational panel member may be "affiliated" with either party, under Article 1901.2).

OCITA urges that the implementing legislation expressly provide that non-governmental experts -- preferably drawn from the affected industries -- be eligible for selection to the panels. In every case, selection should be based on the technical expertise of the proposed panel member on the issue raised in the dispute. Further, the implementing legislation should designate the federal office responsible for naming and approving persons to the roster of eligible

panelists. With these changes, those best qualified to bring the necessary technical expertise to the process can become an essential element in the decision-making process.

A notable disappointment is the loss of the right under U.S. antidumping and countervailing duty cases to judicial review prior to either contracting party being able to invoke the binational panel provisions. The requirement that future U.S. trade legislation must address its applicability to Canada under the FTA provisions is also a disappointment. In OCITA's view, these provisions should not be considered a model for other trade agreements.

G. Protection of Intellectual Property

Article 2004 of the FTA provides that the United States and Canada "shall cooperate in the Uruguay Round of multilateral trade negotiations and in other international forums to improve protection of intellectual property." Thus, despite implicit recognition that intellectual property concerns merited consideration by the negotiators, the FTA imposes no substantive obligation on either party. In fact, neither the United States nor Canada is committed to undertaking any bilateral negotiations aimed at an agreement, or even developing a framework to address intellectual property matters.

OCITA is concerned that intellectual property issues considered in a multilateral framework such as the Uruguay Round may not receive the priority attention they deserve. For this reason, OCITA supports the addition of language in the U.S. implementing legislation which provides for a commitment to negotiate substantive provisions for intellectual property protections with Canada, after the FTA is implemented. Such language would not detract from the FTA, but would encourage the conclusion of an intellectual property agreement which could serve as a useful model for the Uruguay Round.

In the FTA, the United States and Canada reached no agreement relating to the preservation of existing intellectual property protections, or relating to the imposition of more stringent licensing requirements or similar restrictions. OCITA believes that a commitment on the part of the United States to maintain the status quo (as in the energy and investment provisions) for intellectual property protection would provide an incentive for the conclusion of a bilateral agreement in the near future.

H. Subsidies

With the exception of Article 1907, which establishes a Working Party to consider "rules and disciplines concerning the use of government subsidies," the FTA contains no substantive provisions regarding subsidies. The absence of any substantive, subsidy-related provisions not only fails to provide the Working Party with adequate direction, but also fails to state that countervailable government subsidies are undesirable instruments of trade policy. Article 104, by expressly continuing the obligations of each country under consistent instruments, effects no change in the application of the GATT Articles VI and XVI, and the GATT Subsidies Code. Additionally, Article 2011 allows for the commencement of dispute resolution procedures if, for example, a subsidized import "nullifies or impairs" an expected FTA benefit. However, these provisions are inadequate to encourage a full review of government subsidy programs, and will not promote measures necessary to reform such subsidy systems. OCITA believes that the FTA implementing legislation should provide some basic direction to the Working Party on subsidies, at least in focusing efforts on defining "actionable" subsidies. Transparency in the Working Party deliberations should also be encouraged to allow for the consideration of private sector views during the process.

Conclusion

The Office of the Chemical Industry Trade Advisor appreciates this opportunity to present its views on the U.S. - Canada Free Trade Agreement. OCITA supports the FTA and urges its full implementation. Efforts should not stop to build on the FTA and to add new provisions. The FTA establishes a basis to facilitate such future negotiations in areas where needed development has already been acknowledged.

OCITA believes the FTA will facilitate future trade negotiations in a number of unresolved areas. The suggestions and additional procedures we have outlined in this statement are intended to strengthen the U.S. position in this and similar agreements. We offer to provide Congress and the Administration with any assistance that may be necessary in implementing this new trade relationship with Canada.

○